

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION
3 UNITED STATES OF AMERICA,) Case 1:18-cr-00457
4 Plaintiff,)
5 v.) Alexandria, Virginia
6 BIJAN RAFIEKIAN,) July 18, 2019
7 Defendant.) 9:00 a.m.
8) Day 4 (AM Session)
9) Pages 659 - 799

9 TRANSCRIPT OF TRIAL
10 BEFORE THE HONORABLE ANTHONY J. TRENGA
11 UNITED STATES DISTRICT COURT JUDGE
12 AND A JURY
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25 COMPUTERIZED TRANSCRIPTION OF STENOGRAPHIC NOTES

1 APPEARANCES:

2 FOR THE UNITED STATES OF AMERICA:

3 JAMES P. GILLIS, ESQUIRE
4 EVAN N. TURGEON, ESQUIRE
5 JOHN T. GIBBS, ESQUIRE
6 S. KATE SWEETEN, ESQUIRE
7 OFFICE OF THE UNITED STATES ATTORNEY
2100 Jamieson Avenue
Alexandria, Virginia 22314
(703) 299-3700

8 FOR BIJAN RAFIEKIAN:

9 ROBERT P. TROUT, ESQUIRE
10 TROUT, CACHERIS & SOLOMON, PLLC
11 1627 I Street, N.W., Suite 1130
Washington, D.C. 20006
(202) 464-3300

12 MARK J. MACDOUGALL, ESQUIRE, *PRO HAC VICE*
13 STACEY H. MITCHELL, ESQUIRE, *PRO HAC VICE*
14 JOHN C. MURPHY, ESQUIRE, *PRO HAC VICE*
15 JAMES E. TYSSE, ESQUIRE
AKIN, GUMP, STRAUSS, HAUER & FELD, LLP
Robert S. Strauss Building
1333 New Hampshire Avenue, N.W.
Washington, D.C. 20036-1564
(202) 887-4000

16 THE DEFENDANT, BIJAN RAFIEKIAN, IN PERSON
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I N D E X

<u>GOVERNMENT'S WITNESS</u>	<u>EXAMINATION</u>	<u>PAGE</u>
Greg Lowman	Direct	677
	Cross	695
James Courtovich	Direct	698
	Cross	734
	Redirect	755
Bryan T. Alfredo	Direct	765
	Cross	788

1 (The jury and Mr. Turgeon are not present.)

2 THE CLERK: Criminal Case 1:18-cr-457, *United*
3 *States v. Bijan Rafiekian*.

4 Counsel, will you please note your
5 appearances for the record.

6 MR. GILLIS: Good morning, Your Honor. Jim
7 Gillis and John Gibbs for the United States. Your
8 Honor, Mr. Turgeon had some sort of family emergency.
9 I don't know what it was.

10 THE COURT: All right.

11 MR. GILLIS: I ask the Court's permission for
12 him to be able to enter the well --

13 THE COURT: Yes.

14 MR. GILLIS: -- when he's able to arrive.

15 THE COURT: Of course.

16 MR. GILLIS: Thank you.

17 MR. GIBBS: Good morning.

18 THE COURT: Good morning.

19 MR. MACDOUGALL: Good morning, Your Honor.
20 Mark MacDougall for the defendant, Bijan Rafiekian, who
21 is here in court today, along with Robert Trout, Stacey
22 Mitchell, and James Tysse.

23 THE COURT: All right. Welcome to everyone.

24 Does either side have any issues they want to
25 raise?

1 Mr. Gillis.

2 MR. GILLIS: Your Honor, the Court had asked
3 for a list of exhibits that we planned to ask Special
4 Agent Alfredo about.

5 THE COURT: All right.

6 MR. GILLIS: In truth, they're not all
7 intended for summary purposes, and there's very few. I
8 can cite the Court to some cases --

9 THE COURT: All right.

10 MR. GILLIS: -- that permit that sort of
11 testimony.

12 THE COURT: Are you going to give me a list
13 of the exhibits?

14 MR. GILLIS: I can do that first.

15 May I give that to Mr. Burns, please?

16 THE COURT: All right.

17 (Documents are given to the Court.)

18 THE COURT: All right. Have you provided a
19 copy to the defense?

20 MR. GILLIS: I e-mailed it last night and
21 then early this morning.

22 THE COURT: All right.

23 MR. GILLIS: Would you like to hear any
24 argument?

25 THE COURT: Yes.

1 MR. GILLIS: So, Your Honor, we have a couple
2 of cases here addressing specifically summary testimony
3 by an agent in a complex case such as this one, and one
4 is in the -- actually, I can hand up clean copies for
5 the Court through Mr. Burns.

6 Thank you.

7 (Documents are given to the Court.)

8 THE COURT: Thank you.

9 MR. GILLIS: So, Your Honor, I had provided a
10 copy of these to defense counsel as well.

11 THE COURT: All right.

12 MR. GILLIS: In that Fifth Circuit case,
13 *United States v. Baker*, 923 F.3d 390, a 2019 case from
14 the Fifth Circuit, on page 8 of the Westlaw printout,
15 that bottom paragraph there notes: The agent's
16 testimony that tied specific, already-admitted exhibits
17 to the substantive indictment counts listed on a
18 demonstrative chart is summary testimony. Such
19 testimony is permissible in complex cases with
20 voluminous evidence.

21 I submit that this is such a case, Your
22 Honor.

23 And then in the Fourth Circuit -- I guess I
24 should have started off with that one. The Fourth
25 Circuit is *United States v. Janati*. That's 374 F.3d

1 263, a 2004 decision. On page 11 of the Westlaw
2 printout, at the bottom of page 10 onto the top of
3 page 11, it speaks of summaries may include witnesses'
4 conclusions or opinions or they may reveal inferences
5 drawn in a way that would assist the jury. Of course,
6 it makes note that it's always within the discretion of
7 the Court.

8 Then in that first complete paragraph in the
9 second column of page 11, the Fourth Circuit says,
10 "Moreover, when the government prosecutes a conspiracy
11 involving a series of crimes -- alleged by the
12 government in this case to number more than 1300" -- of
13 course, that's not the case here -- "the government
14 must be given additional latitude during trial to carry
15 its burden of proof. Similarly, when it is faced with
16 a difficult task of proving implied intent, it must
17 also be given some extra latitude to distinguish
18 purposeful conduct from mistake."

19 So we submit, Your Honor, that this brief
20 summary testimony by the agent would be perfectly
21 appropriate.

22 Truthfully, as the Court will see, not all of
23 those exhibits are intended to be summaries as much as
24 just to remind the jury where we are in the story, to
25 give background to what the agent will then testify

1 concerning specific things that he observed or searched
2 for in the electronic evidence of this case.

3 THE COURT: His testimony is to summarize the
4 documents as opposed to essentially presenting a
5 narrative supported by documents?

6 MR. GILLIS: No. Exactly. He's not going to
7 provide a narrative supported by documents.

8 THE COURT: Right.

9 MR. GILLIS: I think the Court will agree
10 that -- if permitted, the Court will agree that they're
11 really intended only to orient the jury to the
12 testimony that he's about to provide.

13 THE COURT: All right. Mr. Trout.

14 MR. TROUT: Thank you, Your Honor.

15 We're opposed to the summary witness. Your
16 Honor, I think if the Court -- if I could refer the
17 Court to *United States v. Johnson*, a Fourth Circuit
18 case from 1995, I think it speaks to the prejudices
19 that can occur. I think it's typically what I
20 believe --

21 THE COURT: What's the cite on *Johnson*? Oh,
22 I see it. It's 54 F.3d 1150.

23 MR. TROUT: Yes, at 1167.

24 Your Honor, the length of the trial is
25 obviously a consideration. We've had two days of

1 testimony. The number of witnesses testifying is a
2 consideration. We've had actually not many witnesses.
3 There has been one witness already who has been
4 essentially a summary witness. That was Grant Smith
5 who went through various financial documents and just
6 kind of highlighted the financial documents.

7 This is just not a complex case that would
8 call for a summary witness. I think if you look at the
9 exhibits that the government wants to use, what is
10 evident is that they want to essentially take this type
11 of evidence that might be an e-mail with lots of
12 hearsay and maybe this financial document over here and
13 piece it all together, really, the obligation of
14 counsel in closing argument. They're really trying to
15 essentially summarize their case a second time -- or a
16 first time in advance of the closing argument.

17 I think what you will see with the documents
18 is that some of them, many of them, are being
19 offered -- that there's going to be testimony about
20 them in order to essentially show again to the jury
21 communications from Alptekin which are hearsay, and
22 they will -- it will have the effect -- no matter what
23 sort of instructions the Court gives, it will have the
24 effect of essentially emphasizing the inadmissible
25 hearsay.

1 So we do not believe that this is a case
2 where a summary witness is called for. We don't
3 understand how Special Agent Alfredo really has any new
4 information, new evidence to present.

5 THE COURT: All right.

6 MR. GILLIS: Your Honor, if I just may
7 respond?

8 THE COURT: Yes. Mr. Gillis, just so I'm
9 clear, all the exhibits that you've listed in what
10 you've given the Court, those are in evidence or will
11 be in evidence?

12 MR. GILLIS: They're in evidence. He's going
13 to introduce a couple of them himself, but they are
14 otherwise -- they will be in evidence. They either
15 already are -- and I can identify those that aren't in
16 evidence. There will be two or three that will be
17 introduced by Special Agent Alfredo.

18 His testimony is certainly going to be
19 90 percent substantive concerning his own observations
20 based upon the evidence.

21 THE COURT: Observations of what?

22 MR. GILLIS: Observations that he made
23 concerning the electronic evidence and certain word
24 searches that he did and what he found or didn't find
25 in the searches of all of this electronic evidence of

1 which there is about 28,000 e-mails, all of which the
2 defense has and in a form that they, too, can do their
3 own word searches for.

4 THE COURT: Which of these exhibits aren't in
5 evidence?

6 MR. GILLIS: Are not in evidence, Your Honor?

7 THE COURT: Are not in evidence, yes.

8 MR. GILLIS: May I have just one moment?

9 THE COURT: Yes.

10 MR. GILLIS: I have to find my own list
11 again, Your Honor. If you will, just give me one
12 second.

13 Exhibit 8A is just an amendment of -- we have
14 a new 8A that we've given to defense counsel. It's
15 simply the actual e-mail, rather than the screenshot of
16 the e-mail. That's really not a substantive change.

17 THE COURT: All right.

18 MR. GILLIS: Exhibit 15 is in evidence.

19 Exhibit 15A is not. Exhibit 16 is in evidence.

20 Exhibit 17 is in evidence. Exhibit 20 is in evidence.

21 Exhibit 23A is in evidence. Exhibit 23B is in
22 evidence. Exhibit 20H --B isn't -- no. I'm sorry.

23 Exhibit 28B is not in evidence; although, I'm not sure
24 if we're going to use that. Exhibit 41 is in evidence.

25 Exhibit 93B is in evidence. Exhibit 93A is in

1 evidence. Exhibit 26A is in evidence. Exhibit 26B is
2 in evidence. Exhibit 103A is in evidence, and 103B is
3 in evidence. Exhibit 104A and B are in.

4 THE COURT: All right. I'll review this and
5 give you a decision before the agent testifies.

6 MR. GILLIS: Thank you, Your Honor.

7 If I could just have one final word in
8 rebuttal.

9 THE COURT: Yes.

10 MR. GILLIS: There are 162 exhibits that are
11 entirely documentary in this case. The jury has been
12 drinking from the fire hose with these exhibits. And
13 simply to orient them as to date and subject, which is
14 really all these exhibits are for, to put in context
15 his substantive testimony, I think, Your Honor, is the
16 appropriate leeway that you have full discretion to
17 allow or not allow.

18 THE COURT: All right.

19 MR. GILLIS: Thank you, Your Honor.

20 THE COURT: Yes.

21 MR. TROUT: Your Honor, just on a separate
22 issue for Agent Alfredo.

23 THE COURT: Yes.

24 MR. TROUT: Mr. Rafiekian's electronic
25 devices were actually seized pursuant to search

1 warrant. We essentially called them up and told them
2 that we had them, that they can come and get them from
3 us. So we would ask that the Court direct Mr. Alfredo
4 not to essentially refer to them having conducted a
5 search and seizure of his --

6 THE COURT: Any issue with that?

7 MR. GILLIS: We did have a warrant, Your
8 Honor.

9 THE COURT: No, I understand. They were
10 turned over, though, I take it.

11 MR. GILLIS: Pursuant to a warrant, Your
12 Honor.

13 MR. TROUT: Just to be clear, there was a
14 subpoena. Counsel asserted on behalf of Mr. Rafiekian
15 active production privilege and told them that we were
16 going to get the documents, and when they got a search
17 warrant, they should come to our offices. They called
18 us up, told us that they had a search warrant. They
19 were not going to search our offices. They just wanted
20 us to meet them at the door and hand over the devices,
21 which we did.

22 THE COURT: What are you asking?

23 MR. TROUT: I'm asking that he not refer to
24 the fact that they had seized pursuant to search
25 warrant these devices as opposed to they examined the

1 devices. If the point is we examined these devices, he
2 can talk about that without going through the
3 procedures under which they got them.

4 THE COURT: All right.

5 MR. GILLIS: It was not a voluntary
6 production, Your Honor.

7 THE COURT: I understand.

8 MR. GILLIS: There was a warrant that was --
9 actually, I believe it was for the office of Mr. Trout
10 for those search warrants. As a convenience to him, we
11 allowed him to produce them. But to suggest that they
12 were voluntarily provided by the defendant, they
13 certainly were not.

14 THE COURT: No, I understand. I'll let the
15 agent testify that he reviewed records that were
16 obtained through subpoena.

17 MR. GILLIS: By subpoena?

18 THE COURT: Oh, it was a search warrant. All
19 right. By warrant.

20 MR. GILLIS: Thank you.

21 THE COURT: All right. Anything else?

22 MS. MITCHELL: Yes, Your Honor.

23 THE COURT: Yes.

24 MS. MITCHELL: I wanted to report to the
25 Court this morning -- I have already advised counsel

1 for --

2 MR. GILLIS: You should approach.

3 MS. MITCHELL: May we approach, Your Honor?

4 THE COURT: Yes.

5 (Conference at the bench, as follows:)

6 MS. MITCHELL: Your Honor, as I was waiting
7 out the rain last night in front of the building, I did
8 not realize that a juror was standing next to me. I
9 did not say anything related to the case. At some
10 point, as I looked to my left to check out the rain, I
11 realized it was a juror. He said something to me. I
12 don't know all the words, but it ended with the word
13 "case." I looked down.

14 THE COURT: He was talking to somebody else?

15 MS. MITCHELL: Oh, no. He was talking to me.
16 He said something, something, something, case. I
17 looked down, and I ran out into the rain.

18 THE COURT: All right.

19 MS. MITCHELL: So Mr. Gillis and I have had a
20 chance to chat. We believe it's the same juror that
21 said something to him in the elevator. I think at this
22 point we're not suggesting anything. Maybe a reminder
23 in the flow of things that they shouldn't talk to us
24 and we're not being rude.

25 MR. GILLIS: Right. We don't want to appear

1 that the two of us dined him out.

2 THE COURT: While we're talking about jurors,
3 there's one juror here who is enjoying a good nap every
4 now and then. He's an alternate.

5 MR. GILLIS: That could be my fault.

6 THE COURT: If he were a regular juror, I
7 would think about striking him. Given that he's an
8 alternate, unless you-all want me to do something else,
9 I'm inclined to just hang in there with him.

10 MS. MITCHELL: We also think he might be the
11 same gentleman that's approaching us.

12 MR. GILLIS: Actually, I thought it was
13 somebody else.

14 MS. MITCHELL: Oh, all right.

15 THE COURT: All right.

16 MR. MACDOUGALL: Judge, we handled this at
17 sidebar yesterday. If I may.

18 THE COURT: Yes.

19 MR. MACDOUGALL: Government Exhibit 146 had a
20 redaction ordered by the Court. We prepared a
21 redaction. I've given them to the government. If we
22 could move those be used as a replacement.

23 THE COURT: All right. Good.

24 Thank you.

25 MR. MACDOUGALL: Thank you, Your Honor.

1 MR. GILLIS: Thank you, Your Honor.

2 (Proceedings continued in open court, as
3 follows:).

4 THE COURT: All right. We'll stand in recess
5 until the jury is assembled.

6 The Court will stand in recess.

7 (Recess from 9:25 a.m. until 9:37 a.m.)

8 (The jury is not present.)

9 THE COURT: Ready to bring the jury out?

10 MR. GILLIS: Yes.

11 THE COURT: All right. Let's bring the jury
12 out.

13 MR. GILLIS: Your Honor --

14 THE COURT: Yes.

15 MR. GILLIS: -- may we approach at sidebar
16 just having to do with Mr. Turgeon's absence and his
17 entry afterward? I don't want it to appear that it's
18 disrespectful to the Court or the jury.

19 THE COURT: All right. We can deal with
20 that.

21 MR. GILLIS: Okay. Thank you, Your Honor.

22 (The jury enters at 9:38 a.m.)

23 THE COURT: All right. Please be seated.

24 All right. Is the government ready to
25 proceed?

1 MR. GIBBS: Well, Your Honor. We have one
2 matter to take up with the Court.

3 THE COURT: Yes.

4 MR. GIBBS: At this time, we would offer two
5 new exhibits, Government's Exhibits 166 and 167. They
6 are the LDA forms that were filed on behalf of the
7 defendant. In addition, we've got 168 and 169, which
8 are the bills from the House and Senate that the forms
9 indicate the lobbying activities were taking place on
10 behalf of.

11 THE COURT: All right. Any objection?

12 MS. MITCHELL: No objection, Your Honor.

13 THE COURT: Without objection,
14 Exhibits 168 --

15 Is that --

16 MR. GIBBS: Your Honor, it's 166, which is
17 the LD-1 form; 167, which is the LD-2 form; 168, which
18 is the -- I believe it's the House Bill; and 169 -- the
19 House legislation, I guess; and 169, which is the
20 Senate legislation. They are both referenced within
21 the LDA documents.

22 THE COURT: All right. Exhibits --

23 MS. MITCHELL: Your Honor, with one point of
24 clarification. I think Mr. Gibbs inadvertently
25 referenced they were filed on behalf of the defendant.

1 It's actually on behalf of the Flynn Intel Group. The
2 documents speak for themselves.

3 THE COURT: All right.

4 MR. GIBBS: Yes, Ms. Mitchell is exactly
5 right. I apologize, Your Honor. That's correct.

6 THE COURT: All right. Exhibits 166, 167,
7 168, and 169 are admitted.

8 MR. GIBBS: Thank you, Judge.

9 THE COURT: All right. The government will
10 call its next witness.

11 MR. GILLIS: Your Honor, we call Greg Lowman,
12 please.

13 THE COURT: All right. Mr. Lowman will come
14 forward, please.

15 GREG LOWMAN, PLAINTIFF'S WITNESS, AFFIRMED

16 DIRECT EXAMINATION

17 BY MR. GILLIS:

18 Q Good morning, sir. Would you tell jury your name.

19 A Greg Lowman.

20 Q And where in the fall of -- in the summer and fall
21 of 2016 did you work?

22 A Sphere Consulting.

23 Q And what was your position there?

24 A Partner.

25 Q In what city is Sphere's office?

Lowman - Direct

1 A Washington, D.C.

2 Q What kind of work does Sphere do?

3 A Public affairs consulting, lobbying and
4 communications work.

5 Q And what kind of work did you do?

6 A I handled particularly financial services,
7 aerospace and defense, and a little bit of government
8 representation.

9 Q When you say "government representation," what do
10 you mean?

11 A Representing sovereign countries under the FARA
12 laws.

13 Q And did Sphere file under the Foreign Agents
14 Registration Act when working with foreign sovereign
15 governments?

16 A Yes.

17 Q Are you familiar with the Flynn Intel Group or
18 FIG?

19 A I am.

20 Q Did you refer to it as FIG?

21 A Yes.

22 Q Did Sphere ever do any work for FIG?

23 A Yes.

24 Q How many projects did Sphere and FIG work
25 together?

Lowman - Direct

1 A One.

2 Q Were you involved in that work?

3 A I was. Not as in depth or as close as others, but
4 around the edges.

5 Q Okay. In what way?

6 A I was at the initial meeting, one other meeting,
7 and was copied on some e-mails. But was never
8 intensely involved in the project.

9 Q Who was the principal contact for FIG on the
10 project?

11 A Graham Miller.

12 Q That's for Sphere, is that right?

13 A Yep.

14 Q And who was the principal contact for FIG?

15 A Bijan Kian.

16 Q Do you see Mr. Kian in the courtroom today?

17 A I do.

18 Q And where do you see him?

19 A Right there.

20 THE COURT: The record will reflect he's
21 identified Mr. Rafiekian.

22 BY MR. GILLIS:

23 Q Sir, you mentioned that you were at the initial
24 meeting. Was that with Sphere and FIG personnel about
25 a possible project with FIG?

Lowman - Direct

1 A That's right. Yep.

2 Q Where did that take place?

3 A That was at their offices in Alexandria.

4 Q Do you recall when that was?

5 A September 2016 sounds about right.

6 Q Let me ask you --

7 A Oh, I'm sorry. August. That would have been
8 August, right?

9 Q August?

10 A 2016.

11 Q And if I could ask you to take a look at
12 government's grand jury -- pardon me -- Governments
13 Exhibit 96A. Could you read -- so this is -- do you
14 recognize Graham Miller?

15 A Yep.

16 Q In that e-mail, he says, thanks for thinking of
17 Sphere. We have compiled our initial thoughts into a
18 memo, and I have attached it for your review. Please
19 let us know of anything else we can provide. I will
20 stand by for next steps.

21 Do you see that he refers to the briefing on
22 Tuesday?

23 A That's right.

24 Q Do you see that this e-mail is dated August 18, a
25 Thursday.

Lowman - Direct

1 A That's right. Yep.

2 Q Does that help refresh your memory?

3 A Yep. It -- I was confusing the two meetings.

4 August was the first one.

5 Q What date in August?

6 A August 16, 2016.

7 Q And do you recall who was there?

8 A Myself, James Courtovich, Graham Miller, an
9 associate at the time of ours, John Kelley, Bijan Kian,
10 and General Flynn.

11 Q What was the purpose for this meeting?

12 A The purpose was to introduce the potential project
13 to us, and also get a little bit of a sense of what we
14 do, in particular, with General Flynn who hadn't heard
15 of us before.

16 Q And who did most of the talking at this meeting?

17 A I'd say Bijan did the bulk of the talking.

18 Q What was it that the defendant said?

19 A He was introducing the project as an opportunity
20 to showcase to the world, frankly, that a more balanced
21 view of why the coup was underway, and why Turkish
22 business interests were concerned about the perception
23 of Turkey at the time, and their needs to balance that
24 perception.

25 Q You mentioned Turkish business --

Lowman - Direct

1 A Interests.

2 Q -- interests.

3 A Yep.

4 Q Did he refer to the client in any way or describe

5 --

6 A No. It was always --

7 Q Did he describe --

8 A - at that stage, that very early stage, a
9 collection of business interests or individuals.

10 Q You mentioned the coup. Was there any mention of
11 who was involved in the coup?

12 A Yeah. It was -- the idea was certainly to inform
13 people of the actors involved so that the perception
14 wasn't that Erdogan's actions were out of thin air.

15 Q And whose actions?

16 A The president of Turkey, Recep Erdogan. That his
17 actions in the country were taken out of thin air and
18 were not arbitrary so that there was some balance to
19 the perception of why he was doing what he was doing,
20 and it was because of actions by Fethullah Gulen to
21 foment the situation in the country.

22 In, you know, in dealing with investors,
23 international investors, typically they want to
24 understand a good sense of rule of law in a country.
25 And if they're looking at a country that's taking these

Lowman - Direct

1 actions -- at the time, there were concerns as to the
2 perception of why that was taking place.

3 Q You mentioned the actions of President Erdogan at
4 the time. What are you referring to? What time period
5 are you talking about?

6 A You know --

7 Q I mean, in relation to any particular event?

8 A The coup.

9 Q Did you know who Gulen was at the time?

10 A No.

11 Q Did anyone at the meeting tell you about him?

12 A Yes.

13 Q Who?

14 A Bijan Kian.

15 Q And what did the defendant say?

16 A He sketched a portrait of a man, who while seemingly
17 innocent and living in the Poconos, was behind an
18 attempt to overthrow the Turkish government.

19 Q Did he mention anything about a past relationship
20 that there had been between Erdogan and Gulen?

21 A They were close at one time I remember hearing.

22 Q Did you discuss what the end product of this
23 project would be?

24 A It was going to be a video that we would promote
25 to the media, the mainstream media.

Lowman - Direct

1 Q What kind of -- I mean, if you could characterize
2 it, what kind of video was in mind?

3 A A *60 Minutes* style video, a one-on-one interview,
4 you know, in a nondescript room, is how I pictured it.

5 Q Okay. Was there going to be any particular
6 subject of this documentary video for -- like *60*
7 *Minutes*?

8 A Yeah. The subject was going to be the background
9 of Fethullah Gulen, and the issues surrounding the
10 coup.

11 Q And what was Sphere's role going to be in that
12 project?

13 A We weren't going to have any role in the
14 production of the video, but once the video was made it
15 was my belief that we were to promote it to the public
16 and through our strong relations in the media.

17 Q Okay. What was your understanding about whether
18 this video was going to be complementary or not
19 concerning Mr. Gulen?

20 A Yeah. I mean, I certainly got a sense that it
21 wasn't going to be a positive story to be told about
22 Gulen, you know, that's for sure.

23 Q Do you recall him saying anything about -- or I
24 should say, what, if anything, did the defendant say
25 about the business concerns or the group of business or

Lowman - Direct

1 businessmen, what type of activities were they involved
2 in?

3 A There was certainly an element of travel and
4 tourism, I remember hearing. You know, just the
5 general perception of investing in a country during
6 such a destabilized time seemed to be the prime
7 concern.

8 Q What, if anything, did he say about hotels?

9 A That those interests were involved.

10 Q If I could ask you to look at Government
11 Exhibit 16, please.

12 MR. GILLIS: And if you would, just
13 enlarge -- yes. Thank you.

14 BY MR. GILLIS:

15 Q Your meeting at the Flynn Intel Group took place
16 on August 16; is that right?

17 A Correct.

18 Q Did you see this e-mail at any time during the
19 project?

20 A I did not.

21 Q Were you aware at the time that -- well, first of
22 all, did you learn later who Ekim Alptekin was?

23 MS. MITCHELL: Your Honor, objection. May we
24 approach?

25 THE COURT: What?

Lowman - Direct

1 MS. MITCHELL: Your Honor, this is a document
2 that's been entered for limited purpose and it's
3 hearsay.

4 THE COURT: Right. Why don't you take down
5 the exhibit. I don't think you -- you asked him about
6 it. Why don't you take the exhibit down.

7 BY MR. GILLIS:

8 Q Did you hear anything said about a green light
9 being given six days before you met for some other
10 project?

11 A No.

12 Q At any time during this first meeting between
13 Sphere and FIG, what did the defendant tell you --
14 what, if anything, did the defendant tell you about a
15 potential project or contract with the government of
16 Turkey that related to Gulen?

17 A I had never heard any mention of that.

18 Q At any time during the meeting, what did the
19 defendant, if anything, tell you about any previous
20 potential project or contract that FIG had with the
21 Turkish government in the summer of 2016?

22 A I never heard anything related to the Turkish
23 government being the client.

24 Q At any time during the meeting, what did the
25 defendant say, if anything, about any potential project

Lowman - Direct

1 or contract that had fallen through shortly before the
2 date of your meeting?

3 A I never heard anything about that.

4 Q At any time during the meeting, what, if anything,
5 did the defendant tell you about meetings or
6 conversations that had been had with Turkish ministers
7 about any potential project or contract that related to
8 Gulen?

9 A I never heard anything about that.

10 Q The second meeting that you mentioned, where did
11 that take place?

12 A It was at the University Club in Washington, D.C.

13 Q And when was that?

14 A September 2016. Mid-September, if my memory
15 serves me correctly.

16 Q If you could look at Government's Exhibit 105. Do
17 you see the date of that e-mail is September 19, and
18 the defendant mentioned that they're in New York,
19 returning the next morning, and he looked forward to
20 seeing Graham Miller. Does that help -- specifically
21 he mentioned the University Club. Does that help you
22 recall when in September that meeting at the University
23 Club took place?

24 A Yes.

25 Q When was that?

Lowman - Direct

1 A I guess that would have been the 20th of
2 September.

3 Q Who was at the meeting at the University Club?

4 A Myself, Graham Miller, Jim Courtovich, Bijan Kian,
5 General Flynn and Mike Boston, I believe.

6 Q And did the subject of Gulen come up at that
7 meeting?

8 A Yes.

9 Q And what, if any, comparison did the defendant
10 make of Gulen to anybody else?

11 A He compared him to Khomeini, the Iranian leader.

12 Q How did he describe Khomeini?

13 A He described him as someone who, when introduced
14 to the world when he was in France, was considered
15 somewhat of a peaceful Muslim cleric, and not
16 threatening. But slowly developed obviously a harder,
17 more conservative brand of Islam, and moved to Iran,
18 pulling the wool over people's eyes, essentially, was
19 the message. Similar to Fethullah Gulen.

20 Q And with regard to Khomeini, did he -- what, if
21 anything, did he say about an apple tree?

22 A That he would sit under an apple tree in Paris and
23 proselytize about his religion.

24 Q That's Khomeini would sit under --

25 A Khomeini.

Lowman - Direct

1 Q I take it not the defendant?

2 A Correct.

3 Q Yes. Okay.

4 So is that a comparison that you had heard the
5 defendant make before?

6 A Yes.

7 Q When was that?

8 A That would be at the first meeting in August.

9 Q Okay. And in the -- in that meeting at the
10 University Club on November -- rather, September 20th,
11 do you recall, if anything, was distributed at the
12 meeting?

13 A Yeah. A set of talking points was handed out.

14 Q Would you take a look, please, at Government
15 Exhibit 103B. Have you seen that before?

16 A I have.

17 Q And what is that?

18 A Those are the talking points handed out at that
19 September meeting.

20 Q And if we could look at this first paragraph under
21 January there. Is that consistent with the description
22 of Khomeini that the defendant gave?

23 A Yes.

24 Q And if we could look that the last paragraph under
25 September 18 referring to a cleric in the Poconos. Is

Lowman - Direct

1 that consistent with the description that the defendant
2 gave you at the University Club?

3 A It is.

4 Q If you would, please turn to the second page of
5 Government Exhibit 103B. If you could, look at the --
6 well, actually, if you could just -- let's just go from
7 questions to No. 2 there. That's fine.

8 Do you recall seeing a list similar to these
9 questions at the University Club?

10 A Yeah.

11 Q Those were among the talking points?

12 A Correct.

13 Q And who was the subject of those questions?

14 A Fethullah Gulen.

15 Q Now, we've met before, and we've discussed this
16 exhibit; is that right?

17 A Yes.

18 Q What, if anything, is mentioned there about
19 foreign investments in Turkey?

20 A There is not any mention of foreign investment in
21 Turkey.

22 Q What, if anything, is mentioned about the hotel
23 industry in Turkey?

24 A There's no mention of hotel industries in Turkey.

25 Q How about tourism?

Lowman - Direct

1 A No mention of tourism.

2 Q All right. If you would, take a look, please, at
3 Government Exhibit 104A.

4 MS. MITCHELL: Objection based on the same
5 grounds, Your Honor.

6 THE COURT: Let's hear the question.

7 MS. MITCHELL: It's being displayed to the
8 jury, Your Honor.

9 THE COURT: That's all right. Why don't you
10 review it, take it down.

11 Do you have a question about this?

12 MR. GILLIS: I do, Your Honor. It has to do
13 with a statement in that -- that is was consistent
14 with --

15 THE COURT: Well, he wasn't copied on this.
16 Why don't you just ask him about subject matter whether
17 it was inquired into, which is what you want to get at;
18 isn't that right?

19 MR. GILLIS: Can I ask him to review the
20 e-mail?

21 THE COURT: Yes.

22 MR. GILLIS: All right.

23 BY MR. GILLIS:

24 Q Do you have that in front of you there?

25 A Not right now.

Lowman - Direct

1 THE COURT SECURITY OFFICER: Mr. Gillis, gave
2 him your binder.

3 MR. GILLIS: Thank you, sir.

4 BY MR. GILLIS:

5 Q In this e-mail, do you see there the last sentence
6 there in 104A? Just read that to yourself, please.

7 A He is as important -- oh, to myself?

8 Q No. No. To yourself, please.

9 A Yeah. Sorry.

10 Okay.

11 Q Have you read it?

12 A Yeah.

13 Q Have you -- do you recall whether you ever heard
14 the defendant refer to President Erdogan in that way?

15 A I don't recall.

16 Q Do you recall President Erdogan being mentioned at
17 a meeting at the University Club?

18 A I don't recall.

19 Q Do you recall the subject of a trip to New York
20 coming up during that University Club meeting?

21 A Yes.

22 Q And if I can ask you to look at Government
23 Exhibit 105.

24 MR. GILLIS: It's in evidence, Your Honor.

25 THE COURT: Yes.

Lowman - Direct

1 BY MR. GILLIS:

2 Q Could you focus in on this e-mail from Mr. Kian.
3 And he tells you there on the 19th that he's in New
4 York, scheduled to return tomorrow morning. General
5 Flynn and I look forward to seeing you tomorrow. Does
6 that refresh your memory as to when the meeting in New
7 York took place?

8 MS. MITCHELL: Objection.

9 THE COURT: Yes. Sustained. There's no
10 evidence he was at that meeting; is there?

11 MR. GILLIS: I'm sorry, Your Honor?

12 MS. MITCHELL: And he further -- I believe
13 the testimony was, Your Honor, that he didn't hear
14 about it.

15 THE COURT: Right. You want to ask him about
16 whether he was told anything about the meeting at the
17 University Club?

18 MR. GILLIS: Yes.

19 THE COURT: Why don't you ask him that
20 question.

21 MR. GILLIS: I will, Your Honor. Thank you.

22 MS. MITCHELL: Can the exhibit be taken down?

23 THE COURT: Yes.

24 BY MR. GILLIS:

25 Q So do you recall the subject of a trip to New York

Lowman - Direct

1 coming up at the University Club?

2 A Yes. It was my understanding that General Flynn
3 was headed up to New York from the University Club
4 meeting.

5 Q And do you recall -- okay. Do you recall any
6 mention at the New York meeting of -- well, what, if
7 anything, was said at that University Club meeting
8 about meeting with Turkish officials in New York?

9 MS. MITCHELL: Objection.

10 THE COURT: Overruled.

11 A There was no mention.

12 Q At the time of that University Club meeting, or
13 actually during the meeting, what, if anything, did the
14 defendant tell you about a prior potential project or
15 contract with the government of Turkey that related to
16 Gulen?

17 A He did not.

18 Q What, if anything, did the defendant tell you at
19 the University Club about meetings or conversations
20 that Mr. Alptekin had had with Turkish ministers about
21 a potential project that related to Gulen?

22 A He did not tell me anything about that.

23 Q At any time during the meeting did the defendant
24 ever tell you about any previous potential project or
25 contract that FIG had with the Turkish government in

Lowman - Cross

1 the summer of 2016?

2 A No.

3 Q And during that meeting at the University Club,
4 what, if anything, did the defendant tell you about
5 meetings or conversations that had been had with
6 Turkish ministers about any potential project or
7 contract that related to Gulen?

8 A Nothing.

9 MR. GILLIS: Nothing further, Your Honor.

10 THE COURT: All right. Any cross?

11 MS. MITCHELL: I'll be very brief, Your
12 Honor.

13 CROSS-EXAMINATION

14 BY MS. MITCHELL:

15 Q Good morning, Mr. Lowman. How are you?

16 A Good morning.

17 Q My name is Stacey Mitchell. I represent Mr. Kian.
18 We've not spoken before, correct?

19 A Correct.

20 Q All right. Great. I want to direct your
21 attention back to the first meeting you had with FIG
22 about a potential contract. And that was the
23 August 16th meeting, correct?

24 A Correct.

25 Q And you recall Mr. Flynn being there?

Lowman - Cross

1 A I do.

2 Q And was Mr. Flynn in a position to be able to hear
3 as the defendant told his story about Ayatollah
4 Khomeini under the apple tree?

5 A Yes.

6 Q Now, Mr. Lowman, in your position, on a day-to-day
7 basis, you are frequently involved in business
8 development, correct?

9 A Yes, ma'am.

10 Q And can you explain to the jurors what business
11 development is from a perspective of a firm like
12 Sphere?

13 A It's anything from responding to a request for a
14 proposal, which is a very formal process where you're
15 competing with other firms to a referral business where
16 you've been established as a credible, good consultant
17 and been passed along as someone who you should be --
18 they're a partner you should be working with. Or cold
19 pitches where you're responding to situations where
20 you're going in and offering your services to someone
21 who has never heard of you before, and may not even
22 know they need you.

23 So it sort of runs the gamut between a number of
24 different situations.

25 Q And as you are working on a potential project,

Lowman - Cross

1 you're surely hopeful you're going to get the project
2 and get the work, correct?

3 A Correct.

4 Q But some you get, right?

5 A Right.

6 Q And some you don't?

7 A Correct.

8 Q Do you frequently share with all your business
9 partners all the business opportunities you did not
10 get?

11 A No.

12 Q When you meet with associates, do you frequently
13 tell them about unrelated business meetings you had on
14 different days?

15 A When you're referring to associates, you're
16 referring to my colleagues?

17 Q No. When you meet with potential partners that
18 are not within Sphere.

19 A Got it.

20 Q But at other entities.

21 A Got it.

22 Q Do you frequently tell them about unrelated
23 meetings you had on different days?

24 A Never.

25 MS. MITCHELL: No further questions, Your

Courtovich - Direct

1 Honor.

2 THE COURT: All right. Any redirect?

3 MR. GILLIS: No, Your Honor. The witness may
4 be excused.

5 THE COURT: All right. Mr. Lowman, you're
6 excused. Do not discuss your testimony outside of the
7 courtroom with any other witness.

8 (The witness stands aside.)

9 THE COURT: All right. The next witness.

10 MR. GILLIS: Your Honor, we call Jim
11 Courtovich, please.

12 THE COURT: All right. Mr. Courtovich will
13 come forward, please.

14 JAMES COURTOVICH, PLAINTIFF'S WITNESS, AFFIRMED

15 DIRECT EXAMINATION

16 BY MR. GILLIS:

17 Q Good morning, sir.

18 A Good morning.

19 Q Would you tell us your name, please.

20 A James Courtovich.

21 Q Where do you work?

22 A Sphere Consulting.

23 Q What's your position there?

24 A Managing partner.

25 Q Oh, you have some papers in front of you?

Courtovich - Direct

1 A Oh.

2 (Papers are handed to the court security officer.)

3 Q If there's a time you need to refreshing your
4 memory, you can ask to review those.

5 A Okay. It was just the e-mails.

6 Q Oh, you'll see them.

7 A Okay.

8 Q Okay. So -- I'm sorry. You were telling us what
9 Sphere Consulting does, I believe.

10 A We're a lobbying and public relations firm based
11 in Washington, D.C.

12 Q And how do you -- do you know Bijan Rafiekian or
13 Bijan Kian?

14 A Yes.

15 Q How long have you known him?

16 A Ten or twelve years.

17 Q Do you see him in court today?

18 A Yes.

19 Q Could you tell us where he is?

20 A Right here.

21 THE COURT: The witness has identified
22 Mr. Rafiekian.

23 BY MR. GILLIS:

24 Q Are you familiar with the Flynn Intel Group or
25 FIG?

Courtovich - Direct

1 A Yes.

2 Q Do you refer to it as FIG?

3 A FIG.

4 Q Do you know whether the defendant had any role at
5 FIG?

6 A He was vice chairman of the company.

7 Q At some point, did the defendant ask you to become
8 involved in a project with FIG?

9 A Yes. He reached out to us to see if we'd be
10 interested in a project. He didn't identify who the
11 client was, but he had just reached out and gave a
12 rough overview.

13 Q Would you take a look please at Government
14 Exhibit 95.

15 A Uh-huh.

16 Q Do you have that in front of you there?

17 A Yes.

18 Q Is this the initial reach out that the defendant
19 sent you?

20 A He reached out over the weekend to see if we could
21 speak as soon as possible about a possible project.

22 Q And did you hear from the defendant again after
23 this e-mail?

24 A Yeah. We soon had a meeting. We had a phone call
25 and then a meeting.

Courtovich - Direct

1 (Mr. Turgeon enters.)

2 BY MR. GILLIS:

3 Q When was that?

4 A The meeting itself at FIG?

5 Q Let's start with the phone call.

6 A The phone call I think was -- I think we did it on
7 Sunday or Monday. We did it pretty quickly after his
8 e-mail.

9 Q And what did he tell you during the phone call?

10 A This was a very -- it was just a vague overview.
11 I think generally seeing if there could be any
12 conflicts on our side and then asking if, you know --
13 definitely had mentioned that it was Turkey-related or
14 the project would be borne from businessmen or a
15 business -- like a group of business people in Turkey
16 that were looking to do a project. But we did not go
17 into any specific detail because it was just so early
18 on in the process.

19 Q Did he mention what he wanted Sphere to do during
20 that call? Do you recall?

21 A I'm pretty sure it was -- I think early on it was
22 the promotion of a video, but there weren't particular
23 specifics at that point.

24 Q Okay. After the e-mail that we just saw and your
25 call with the defendant, what was the next thing to

Courtovich - Direct

1 happen regarding this potential project?

2 A He brought us in for an introductory meeting with
3 General Flynn at Flynn Intel Group in Alexandria.

4 Q Let me ask you to look at Government's
5 Exhibit 96A.

6 A Uh-huh.

7 Q So you see this e-mail in which you're copied.
8 The date of the e-mail is Thursday, August 18. You
9 referred to the briefing on Tuesday. Do you recall
10 from that when the meeting at FIG took place?

11 A It would have been on the 16th of August.

12 Q And who was at this meeting, please?

13 A General Flynn, Bijan, myself, Graham Miller from
14 my office, Greg Lowman, and John Kelly from our office.

15 Q So John Kelly is from your office?

16 A He was really our driver, and he just kind of came
17 into the meeting.

18 Q Now, if you would, look at Government Exhibit 96B,
19 please.

20 A Uh-huh.

21 Q Can you see that well enough?

22 A Yes.

23 MR. GILLIS: Actually, let's zoom in on the
24 header there if you would.

25 BY MR. GILLIS:

Courtovich - Direct

1 Q Is that something that you drafted?

2 A These documents are drafted by the whole team, but
3 they usually go out under my name. I was part of the
4 drafting.

5 MR. GILLIS: And then you can zoom down? Can
6 you now zoom in on the top there?

7 BY MR. GILLIS:

8 Q Is this the memo that you sent over to the
9 defendant at some point?

10 A Yeah, this is -- what we usually do, we have the
11 initial meeting. We take some -- we take notes and
12 then try to respond back to the client or potential
13 client as to what we heard and what we're thinking and
14 where we could be of assistance.

15 Q Okay. And was that memo based upon discussions
16 you had at FIG on August 16?

17 A Correct.

18 Q Now, at this meeting on the 16th at FIG, who did
19 most of the talking?

20 A Bijan led the meeting, and General Flynn would
21 join in.

22 Q Looking at the second paragraph of Government
23 Exhibit B -- pardon me -- 96B --

24 A The second bullet point?

25 Q Yes. I'm sorry. It's the second bullet point

Courtovich - Direct

1 there.

2 MR. GILLIS: Can we zoom that up?

3 BY MR. GILLIS:

4 Q Do you see that second bullet point?

5 A Yes, I do.

6 Q Does that reflect what the defendant told you
7 was --

8 MR. GILLIS: Actually, I'm sorry. If you
9 could, go back to this second paragraph, "As
10 discussed."

11 BY MR. GILLIS:

12 Q Is that how the defendant described the people
13 behind the project?

14 A Correct.

15 Q If you would now turn to the -- well, first, let
16 me ask you this. I'm sorry. Did the defendant mention
17 Fethullah Gulen during this meeting, your first
18 meeting?

19 A Yes. Through the whole process, Gulen was
20 mentioned because of the nature of the video and the
21 concern that the -- then the clients we did not know,
22 the business people, of how the private sector was
23 looking at the actions of the Erdogan administration
24 and not understanding it in full context, which would
25 slow private investment in Turkey, the Turkey

Courtovich - Direct

1 businesses, more importantly.

2 Q Did he describe or make a comparison of Gulen to
3 any notorious person during that time?

4 A So the belief was that private -- well, it was
5 explained to us that private investors around the world
6 are not understanding the Gulen role in trying to drive
7 instability in Turkey and, therefore, can't understand
8 or put in context the reaction by the Erdogan
9 administration.

10 So the comparison was people understood America's,
11 you know, movement against Osama bin Laden, and now
12 these private investors have to understand that this is
13 no different than that.

14 Q What, if anything, did he say about schools in the
15 United States?

16 A That the insurgency was being partially funded by
17 dollars syphoned off of the Gulen schools in America,
18 sent back into Turkey to fuel the insurgency, as well
19 as to fuel activities here to destabilize Turkey as
20 well.

21 Q Did the defendant say what was going on in Turkey
22 that might be of concern to these foreign companies?

23 A The actions you had seen on the daily news. And
24 so we do a lot of work --

25 Q Remind us what those were in terms --

Courtovich - Direct

1 A So there were arrests. They were removing people
2 who were in prison for more -- well, more or less
3 serious crimes. But people who were already in prison,
4 they were removing them to put in what they considered
5 dissidents that were trying to destabilize the Erdogan
6 administration and the Turkish government.

7 Q And when you say they were doing that, who are you
8 referring to?

9 A Well, the Erdogan administration and their
10 reaction in trying to settle the unrest that was
11 accused upon the Gulen for creating.

12 Q Could you look at the second bullet of page 2. Is
13 that consistent with what you were being asked to do in
14 connection with this potential project?

15 A Yeah. This is our specific assignment.

16 Q Now, in there you talk about using fact-based,
17 unbiased information to research Fethullah Gulen. What
18 do you mean by that?

19 A So if we have a video that we're not really
20 producing -- and this says "produce and promote." But
21 eventually, we were just to promote it and they were
22 going to produce it.

23 The concern is we've got reporters around the
24 world that we work with all the time. And so when we
25 get a product that we're not part of the production, we

Courtovich - Direct

1 have to make sure it's 100 percent accurate. It has to
2 have fact-based, and it has to be compelling. And it
3 has to have new information in it.

4 Because what happens is if we get something that
5 doesn't have all of that, then they have expectations
6 for us to get a great deal of attention to it and to
7 move the issue and to drive the issue. But if it
8 doesn't have all of this in it, then we can't do it.
9 So, you know, if it's inaccurate or if it's old
10 information or if it's too emotional and not
11 fact-based. So we like to put that in at the beginning
12 so they know what we need to be able to be successful
13 for them.

14 Q Was it your expectation at the time, based upon
15 what the defendant was telling you, that this video
16 would portray Gulen in a complementary light or a
17 negative light?

18 A Well, I think they wanted to demonstrate that --
19 it would be in a factual light, and it wouldn't be
20 complimentary because of, you know, the premise that he
21 is fueling and driving this insurgency.

22 And so what we wanted to make sure is that the
23 information and data was new and relevant, and if --
24 how they outlined his role in the insurgency, it
25 certainly wouldn't have been a complementary one, but

Courtovich - Direct

1 it would have been an accurate one.

2 Q Now, at the meeting at FIG, did you hear any
3 mention of an apple tree?

4 A Yes.

5 Q Tell us what that was.

6 A A reference to Khomeini.

7 Q First of all, can you tell me the reference?

8 A The reference is that there was an old cleric
9 under --

10 Q Who made that?

11 A Oh, I'm sorry. Bijan.

12 And it was a cleric under an apple tree outside of
13 France who said he wanted to lead to get rid of the
14 shah of Iran or the dictator, as I think it was
15 referred to specifically, but didn't want to run the
16 country or rule the country but just to remove the shah
17 of Iran.

18 Q Go ahead.

19 A And later he became the Ayatollah Khomeini and the
20 results...

21 Q And did the defendant draw any comparison between
22 Khomeini and anyone else?

23 A Yes, to Gulen.

24 Q Was that an analogy that you heard afterward in
25 connection with the Turkey project?

Courtovich - Direct

1 A It was a consistent theme.

2 Q Now, at this initial meeting on August 16, did you
3 ask the defendant whether the client was a company or a
4 foreign government?

5 A Well, in the initial meeting, we just thought it
6 was a group of Turkish businessmen is how we were told
7 the potential client might be.

8 Q I see. At some point, did the subject of whether
9 the client was a government or --

10 A No.

11 Q Okay. Up until the point of this meeting,
12 including this initial meeting between and Sphere,
13 what, if anything, did the defendant say about dealing
14 with Turkish officials about a project involving Gulen?

15 A None.

16 Q What, if anything, did the defendant say about
17 meetings or conversations with Turkish ministers about
18 any potential project or contract that related to
19 Gulen?

20 A None.

21 Q What, if anything, did he say about Turkish
22 officials deciding not to go through with the project
23 involving Gulen?

24 A Zero.

25 Q What, if anything, did he say about dealing with

Courtovich - Direct

1 any Turkish officials just a few weeks before your
2 meeting?

3 A Zero.

4 Q At some point after this initial meeting, did you
5 discuss with the defendant some filing that the
6 government might require Sphere to make?

7 A So, yeah, between the Lobbying Disclosure Act or
8 the Foreign Agents Registration Act, FARA.

9 Q Would you look please at Government's Exhibit 140,
10 which is in evidence. I beg your pardon. Exhibit 140
11 is not in evidence. Would you look please at
12 Government's Exhibit 140.

13 A Okay. I have it.

14 Q All right. Do you recognize that, please?

15 A Yes. That's an e-mail chain between Graham Miller
16 and myself.

17 Q What's the subject of that e-mail?

18 A FARA versus LDA.

19 Q Would you --

20 MR. GILLIS: Your Honor, I move 140.

21 THE COURT: Any objection?

22 MS. MITCHELL: It's hearsay, Your Honor. I
23 think he can testify to the topic.

24 THE COURT: Over objection, Exhibit 140 is
25 admitted.

Courtovich - Direct

1 BY MR. GILLIS:

2 Q Now, first of all, you see there the blacked out
3 part says "redacted for privilege."

4 A Uh-huh.

5 Q How did that get on there?

6 A It just references a communication to Graham to
7 double-check with our lawyer that we should, you know,
8 follow suit.

9 Q So who did the redacting? Was it Sphere?

10 A Our lawyer did.

11 Q Okay. Fine.

12 Now, if you could, then go to the next portion of
13 that, this e-mail here. What does this concern?

14 A I think this is just trying to get the contract
15 done. I'm just saying: Why can't we just move
16 forward? The question is what we have to do in the way
17 of registration.

18 MR. GILLIS: All right. You can take that
19 down, please.

20 BY MR. GILLIS:

21 Q So how was this question of FARA or LDA relevant
22 to this project?

23 A So FARA has two sides to it. One side is whether
24 you get paid directly from a government or indirectly
25 from a government or if the main beneficiary is the

Courtovich - Direct

1 government. So if some businessman in some country
2 wants to promote their leader and they do an
3 advertising campaign in the United States to win favor
4 with their leader, then that would have to be under
5 FARA because the main beneficiary is the government or
6 government leader or a political party or whatever it
7 might be.

8 So the Lobbying Disclosure Act is more for --
9 because we knew there was going to be political
10 outreach, policymakers, and that. So the FARA would
11 have been if the belief was -- and it was deferred to
12 Bob Kelley, the counsel at FIG, to make that
13 determination.

14 Q Okay. Let's stop there for a second. So you were
15 distinguishing FARA from the LDA. What is your
16 understanding of who the client needs to be to file
17 under LDA?

18 A Under LDA, you know, a private client.

19 Q Okay.

20 A I mean, a private citizen, businessman. But also
21 the other --

22 Q I'm sorry. So was that a live issue in
23 mid-September 2016 among you folks?

24 A Yeah, for the -- as we were leading into
25 contracting, because we like to put it in the contract.

Courtovich - Direct

1 Q And up through that point, did the defendant say
2 anything or what, if anything, did he say about dealing
3 with Turkish officials about a project involving Gulen?

4 A There was never a discussion of Turkish officials'
5 involvement.

6 Q And what about any discussion with Turkish
7 ministers about any potential project or contract that
8 related to Gulen?

9 A No discussion.

10 Q And what did he say about Turkish officials
11 deciding not to go through with the project involving
12 Gulen?

13 A We were unaware of any Turkish involvement.

14 Q Now, do you recall a meeting at the University
15 Club regarding this Turkey project?

16 A Yes.

17 MR. GILLIS: If I could ask you to put up
18 Government Exhibit 105.

19 BY MR. GILLIS:

20 Q Would you agree that you're still needling about
21 this question of whether to file under LDA or FARA? Is
22 that right?

23 A That's correct. That's the time they said that
24 Bob Kelley was researching and making a determination.

25 Q Okay. Now, this was sent on November 19, and it

Courtovich - Direct

1 reflects that they're returning from New York and
2 looking forward to meeting with you the next day. Do
3 you recall that meeting?

4 A Yes. That was on September 20, the day after that
5 e-mail.

6 Q And that was where again?

7 A University Club in Washington.

8 Q How many meetings did y'all have considering this
9 project at the University Club?

10 A Just one, that one.

11 Q And who was at that meeting, please.

12 A General Flynn, Bijan, Mike Boston, who was the
13 project manager, Graham Miller, Greg Lowman, and
14 myself.

15 Q And what was the purpose of the meeting?

16 A It was to follow up with General Flynn, see where
17 they're heading with the project. We're getting into,
18 you know, having another discussion of talking points,
19 messages. Bijan had a document he wanted to present to
20 us.

21 Q Okay. Was that a one-way flow of information from
22 them to you or --

23 A I think we were exchange ideas. But for the most
24 part, Bijan had a document that he reviewed, and then
25 we just had a general conversation as to, you know,

Courtovich - Direct

1 when the video was going to get done.

2 Our concern -- not concern. But what we really
3 wanted to do was find out what this video was going to
4 be and how it was going to be compelling and how we
5 could be successful for what they needed out of it.

6 Q Do you recall how the defendant referred to this
7 project? Did he have a name for it? Do you recall?

8 A I don't remember any -- a lot of our projects have
9 different code names or, you know, titles to it and
10 whatever have you. I don't remember one associated
11 with this.

12 Q And by this time, the University Club meeting, did
13 you know who FIG's client was?

14 A I don't believe we knew the individual at this
15 point.

16 Q Okay. And --

17 A It could have been -- I think -- it was just
18 around this time when we found out. So it could have
19 been that day. It could have been a few days after. I
20 think we were just getting into contract time. But we
21 still -- we definitely knew it was a Turkish
22 businessman who was leading the effort.

23 Q Okay. And do you recall any document being
24 distributed at that meeting?

25 A There was a -- if I remember, it was like a four

Courtovich - Direct

1 or five-page listing of talking points and also kind of
2 tying in Gulen to the Ayatollah. I think it started
3 under the beginning of a reference to the apple tree in
4 Paris.

5 Q Would you look at Government Exhibit 104B, please.
6 Does that look familiar to you?

7 A Yes.

8 Q And you can turn the page, please. Does that look
9 also familiar to you?

10 A Uh-huh.

11 Q What is that?

12 A It's a list of questions, talking points.

13 Q Rather than -- when did you see that document?

14 A At the University Club.

15 Q Who distributed it?

16 A Bijan.

17 Q Do you recall the subject of a meeting in New York
18 coming up during the University Club meeting?

19 A They said they had come from New York, but there
20 was no specific meeting they had referenced.

21 Q If you would, please look at Government
22 Exhibit 24A.

23 MS. MITCHELL: Objection, Your Honor. Again,
24 hearsay. He has indicated --

25 THE COURT: Is this in evidence?

Courtovich - Direct

1 MR. GILLIS: It is, Your Honor. It's an
2 e-mail from the defendant.

3 MS. MITCHELL: This witness is not copied.

4 THE COURT: All right. Do you want him to
5 look at that?

6 MR. GILLIS: Yes, Your Honor.

7 THE COURT: All right. After looking at it,
8 what's your question?

9 BY MR. GILLIS:

10 Q Do you recall the defendant saying anything, or
11 was there anything said at the University Club meeting
12 about a high-level meeting in New York City the day
13 before your meeting at the University Club?

14 A No. I knew they were going to be in New York
15 just, I think, from the e-mail traffic right, you know,
16 that Monday that they were coming down from New York.
17 But we weren't made aware of any meetings in New York.

18 Q If you could, look at 24B, which is in evidence.
19 How about a cabinet-plus level meeting related to
20 Confidence that took place in that New York City
21 meeting? Do you recall any mention of a cabinet-plus
22 meeting related to Confidence coming up?

23 A No, not at all.

24 MR. GILLIS: You can take that down.

25 BY MR. GILLIS:

Courtovich - Direct

1 Q Up until the point of this University Club
2 meeting, what did the defendant say about FIG having
3 dealings with Turkish officials concerning a project
4 involving Gulen?

5 A I believe there was zero mention of that.

6 Q And what did Flynn say about that, General Flynn?

7 A He had never mentioned Turkish government
8 officials either.

9 Q And what did the defendant say about Turkish
10 officials deciding not to go through with the project
11 involving Gulen?

12 A That was never mentioned.

13 Q Did General Flynn?

14 A He never mentioned it.

15 Q Did either of them say anything at all about
16 dealing with any Turkish ministers in the summer of
17 2016?

18 A Never any mention.

19 Q At some point, did you have a meeting with the
20 client, FIG's client?

21 A Yes.

22 Q And by that time, did you know who that was?

23 A Correct.

24 Q And when was that meeting?

25 A That was in November, early November.

Courtovich - Direct

1 Q Do you recall it being before or after the
2 election?

3 A Before the election.

4 Q And where did that take place?

5 A At Flynn Intel Group.

6 Q Now, by this time, what was Sphere's principal
7 role in the project supposed to be?

8 A Still promoting the video that was, I think at
9 that point, in production.

10 Q And whom were you supposed to give this -- rather,
11 who was supposed to give you this video to promote?

12 A FIG, Bijan and his team.

13 Q And as of that time, had you been given the video?

14 A No.

15 Q And who was at this meeting place?

16 A Ekim -- I can't pronounce his last name --

17 Alptekin and Bijan, Mike Boston, Mike McCauley, Graham
18 Miller, Bob Kelley. I think in and out was General
19 Flynn's son. I'm not 100 percent sure.

20 Q And you were there as well?

21 A Correct.

22 Q Had you met Alptekin before this meeting?

23 A No.

24 Q When you were introduced to Alptekin, what, if
25 anything, did he say?

Courtovich - Direct

1 A When the meeting started -- I mean, we were
2 introduced. But when the meeting started, he looked at
3 me and said, "Oh, great. The great Olivia Pope is
4 here. You're supposed to be doing all of these great
5 things, but I'm not seeing anything. I'm expecting
6 congressional hearings. I'm expecting big news
7 stories. I'm expecting the Department of Justice to be
8 involved."

9 That was the first conversation that we had. Not
10 a great one from a client.

11 Q And who is Olivia Pope, if you know?

12 A So I did this big project for this -- Olivia Pope
13 is a TV show. I forget the name of the show, but it's
14 about a D.C. lobbyist who can just fix problems in five
15 minutes. And I was referred to in a magazine once as
16 the Olivia Pope of Washington. He must have read that,
17 and that's where he did the tie-in.

18 Q And so after that, how did the meeting begin?

19 A I think -- you know, I remember the highlights of
20 the meeting. But I think then they did a rollout of
21 the research and data that was done by, I think --
22 well, McCauley presented it. I don't know who put all
23 the research together. But it was primarily all on the
24 Gulen schools, the flow of dollars, how it's going.

25 I also touched on some immigration issues, how

Courtovich - Direct

1 they brought people in to be a teacher but turned them
2 into a -- at the Gulen schools, into a janitor and
3 shaved dollars off of their paychecks. That's how they
4 would fuel some of the insurgency.

5 Q Was this produced in physical form in some way?

6 A It was a -- the document, as I remember, was
7 supposed to be completed but wasn't. So he was reading
8 from, like, a binder but said he would get everyone the
9 final intel packet soon thereafter.

10 Q Was there some sort of PowerPoint that was
11 presented?

12 A There could have been a PowerPoint in the binder,
13 but we weren't given anything to leave with. And I
14 just remember seeing a lot of data. And if it was in
15 the presentation form, it could have been, but I don't
16 remember.

17 Q Do you recall whether Alptekin had anything in his
18 hands during that presentation?

19 A I think he had his documents from -- I think he
20 was doing -- we didn't have the document in front of
21 us. We were just listening in. But I don't remember
22 what he had in his hand.

23 Q Okay. And do you recall anything -- what, if
24 anything, do you recall about some papers being thrown
25 on the table?

Courtovich - Direct

1 A So he was visibly upset for --

2 Q Who is this?

3 A Ekim. He was visibly upset during the meeting and
4 concerned that we were far behind where, I think, he
5 had expected. And so he had some materials, but I
6 don't remember what exactly he threw.

7 Q And so what were the things that he expected, if
8 he expressed them, that didn't happen?

9 A Congressional hearings, DOJ investigation, and
10 major news article/stories pertaining to the data that
11 was presented at that meeting.

12 Q And what congressional investigations did Alptekin
13 want?

14 A Well, we assumed from that it would probably be
15 the permanent subcommittee of investigations, or it
16 would be financial services if the money is flowing
17 through correspondent banks in New York. There's a
18 whole host of different areas where the Congress could
19 investigate and highlight these issues.

20 Q But regardless of what body might do it, what --
21 if he expressed them, what were the hearings that he
22 wanted to take place?

23 A The hearings to showcase the flow of money from
24 Gulen schools to funding insurgency in Turkey.

25 Q And besides Gulen or Gulen affiliated officials or

Courtovich - Direct

1 entities, did he express anything else that he
2 expected?

3 A Well, this was the meeting where he had said -- he
4 goes, what am I going to tell Ankara in that meeting?
5 Because he was -- you know, as I said, he was upset
6 with where he saw everything.

7 Q What did he tell -- what do I tell Ankara? Is
8 that what he said?

9 A Yes.

10 Q And whom did he say that to?

11 A To Bijan and, you know, into the room.

12 MR. GILLIS: May I have a moment, Your Honor?

13 THE COURT: Yes.

14 BY MR. GILLIS:

15 Q So do you recall how -- what was your reaction to
16 this?

17 A So, I mean, I almost fell off of my chair, and
18 Graham was with me. And Graham runs the day-to-day.
19 And I wasn't even supposed to be at this meeting. He
20 was going to drop me off at the airport, and I was
21 going to fly down to South Carolina. When I find out
22 that Ekim was going to be there, I'm like, well, I'm
23 going to meet the client. It's a client.

24 So I just continued on, and we went over to FIG.
25 You know, the sandwiches were out. I thought it was

Courtovich - Direct

1 going to be just a general meeting. Then he kind of
2 ruled that out.

3 So I -- you know, Graham is doing day-to-day. So
4 I'm trying to figure out what the heck is going on.
5 That's when I said at the meeting -- and I sent a memo
6 right after. I said, Listen, if that's what you're
7 trying to do, then this has to be a government action.
8 It has to be done by a prosecutor in Turkey. It has to
9 be, you know, someone from the ministry of justice that
10 has current, you know, charges against Gulen. Then you
11 have to file a 1782 petition in federal court to get
12 subpoena power.

13 Because after hearing the research and intel, you
14 know, they don't have -- you know, he's a former FBI
15 agent, but he doesn't have the access that he would if
16 he were still in the FBI.

17 So we outlined what the 1782 procedure was and how
18 if that's able to demonstrate the flow of money, then
19 you're going to have something that's going to get you
20 everything you need. But it has to be done by the
21 government. So we sent a memo indicating that and
22 walking through that process.

23 Q It would have to be done by which government?

24 A The Turkish government.

25 Q Initially, you said that you almost fell off your

Courtovich - Direct

1 chair when you saw this reaction by Alptekin. Why?

2 A Well, our whole goal with FIG and Bijan was to get
3 a great working relationship with them because it was
4 going to be a growing company. It was, you know, very,
5 very active over there. We expected it to be in
6 business for some time. So I wanted this project to be
7 very successful.

8 We really don't get hired to promote videos.
9 We're not a video promoter. But we saw this as an
10 opportunity to let them see our work at a very, you
11 know, minimal amount of money compared to the hours
12 that were being put into it.

13 So when you sit there and the client basically
14 tells you you've filed in every single level, then
15 you're pretty concerned. And it took me until -- I got
16 on the elevator with Graham and expressed a little
17 concern about the meeting, and he was just as surprised
18 as I was.

19 Q Okay. Let's just stop there because I don't want
20 to get into what -- we have evidence rules that might
21 stop us from you getting into that.

22 A Sure.

23 Q So if -- let me ask you this first: These things
24 that Alptekin said he was expecting and what he was
25 upset about, how do they line up with what you had been

Courtovich - Direct

1 told up until that time about the project?

2 A Zero. We were hired to promote a video that
3 hadn't been made yet.

4 Q How did that line up with your understanding of
5 the overall project that FIG was engaged in?

6 A When I sat there and he rolled that out, I just
7 divorced the two because what he was talking about was
8 something completely different and independent from
9 what we were looking to do in the way of size, scope,
10 content across the board.

11 MR. GILLIS: May I have another moment, Your
12 Honor?

13 THE COURT: Yes.

14 MR. GILLIS: I promise this is to shorten
15 things, not to lengthen things, Your Honor.

16 BY MR. GILLIS:

17 Q Could you please take a look at Government's
18 Exhibit 129, which is not yet in evidence.

19 A Yes.

20 Q Do you recognize that?

21 A That's the memorandum that we subsequently
22 followed up the conversation on the 1782
23 recommendation.

24 MR. GILLIS: I move to admit Government's
25 Exhibit 129.

Courtovich - Direct

1 THE COURT: Any objection?

2 MS. MITCHELL: None, Your Honor.

3 THE COURT: Exhibit 129 is admitted.

4 BY MR. GILLIS:

5 Q Under "Goals" there, was that your understanding
6 of the goals of the project at that time?

7 A From what he outlined at that meeting.

8 Q Who outlined?

9 A Ekim. What he outlined at that meeting, this was
10 the way they could get there. It's certainly not the
11 previous plan that we were implementing or would
12 implement when the video was done.

13 Q Was this meant to respond to what he had said at
14 the meeting?

15 A Yes. We also wanted to showcase that we were
16 hired to promote a video. And so we didn't fail at any
17 level because we didn't in any way have the
18 understanding that that was the objective or goals of
19 him or anyone.

20 Q And who prepared this?

21 A I wrote it with Graham, and then we conferred with
22 a law firm to help us on some of the other aspects of
23 the 1782 procedure.

24 Q Did you send this memorandum to anybody?

25 A At first to Bijan.

Courtovich - Direct

1 Q Did you later send it to anyone else?

2 A I then sent it -- I didn't hear back. And so we
3 wanted to move forward with it, and so we also sent it
4 to Ekim.

5 Q Was that your strategic analysis of how you wanted
6 to get to where Alptekin wanted to go?

7 A Yes. It was the only way that we saw we could
8 move forward in that direction.

9 MR. GILLIS: You can take that down.

10 BY MR. GILLIS:

11 Q Now, if you would, look at the first paragraph on
12 page 2 of that exhibit. Could you take a moment to
13 read that.

14 A Uh-huh.

15 Q Now, in that last sentence you say, "If done
16 correctly, this will stir parallel criminal
17 investigations." Why did you write that?

18 A Because that is what he outlined with the --

19 Q Who? Who outlined?

20 A Ekim outlined in that meeting in November, that
21 they wanted Department of Justice action against Gulen.

22 Q What action did they want against Gulen?

23 A I don't remember him specifically saying what, but
24 I assumed they didn't -- or he didn't want him to end
25 up in a Pennsylvania prison. I assume they wanted him

Courtovich - Direct

1 extradited to Turkey.

2 Q So in parallel criminal investigations, whom are
3 you referring to there?

4 A I'd say the Department of --

5 Q Well, I'm sorry. About any particular subject?
6 Person? Individual?

7 A About Gulen. It would be about the money flow
8 going into Turkey from the United States.

9 Q And if you would, look under "Media Outreach to
10 Complement the 1782 Petition." Take a moment to read
11 that if you would.

12 A Uh-huh.

13 MR. GILLIS: Can we give the jury a bit
14 longer to read the document?

15 THE COURT: Yes.

16 BY MR. GILLIS:

17 Q Does that also reflect what Alptekin was
18 complaining about at the meeting before?

19 A Well, it reflects what he'd need to do. Well, not
20 he would. What the Turkish government would need to do
21 if that's what they wanted done. Or if this was
22 something that he wanted done -- I should say at this
23 point if it was something he wanted done, he would have
24 to go back and say, I can't do this myself. Here's the
25 pathway. And it would have to be done by the Turkish

Courtovich - Direct

1 government.

2 MR. GILLIS: Okay. You can take that down.

3 BY MR. GILLIS:

4 Q After you gave the memo to Alptekin, what, if
5 anything, did he say about it?

6 A He was --

7 MS. MITCHELL: Objection, Your Honor.

8 THE COURT: Overruled.

9 MS. MITCHELL: To Alptekin?

10 THE COURT: I'm sorry. When is this
11 conversation?

12 MR. GILLIS: This is what Alptekin said he
13 would do with the memorandum.

14 THE COURT: In a conversation?

15 MR. GILLIS: With this witness.

16 THE COURT: All right. I'm going to sustain
17 the objection.

18 BY MR. GILLIS:

19 Q Well, let me ask you this: After you gave this
20 memo to Alptekin, what's the next thing of significance
21 that happened?

22 A We received an e-mail from the deputy chief of
23 mission at the Turkish embassy to come and present a
24 full overview, not just in this category but a
25 comprehensive communications plan for the government of

Courtovich - Direct

1 Turkey for the United States.

2 Q And this official that you referred to, deputy --
3 I'm sorry?

4 A He's the number two in the Turkish embassy as we
5 understood his role.

6 Q And he's from what country?

7 A Turkey.

8 Q I see. Okay.

9 A A Turkish diplomat.

10 Q What was your involvement in the placement of an
11 op-ed that was published on Election Day 2016?

12 A Yes, we were.

13 Q Do you recall there being some controversy about
14 the article?

15 A I do, a lot of controversy relative to the origins
16 of the op-ed.

17 Q And shortly after the controversy about the op-ed,
18 do you recall a phone call you had with the defendant
19 and others?

20 A I -- well, there was a phone call that Graham
21 Miller, Bijan, and Bill McGinley, who then, I think,
22 was still in his role as -- yeah, he was in his role as
23 counsel to the Trump campaign.

24 Q And when did this take place, roughly, in relation
25 to the election?

Courtovich - Direct

1 A A few days after the election when the stories
2 started to pop up in various publications.

3 Q Where were you at the time?

4 A I was in South Carolina.

5 Q What was the purpose of the call?

6 A Mike McGinley wanted to know the origins of the
7 op-ed and if it was related to any project or contract.

8 Q Did Mike McGinley ask questions about that of
9 anyone?

10 A So the call started without me. I had called up
11 to the office to speak to Graham. I was told by the
12 secretary that he was on the phone with McGinley and
13 Bijan. So I kind of jumped in. I had them put another
14 number in, and I joined in.

15 So, at that point, the conversation was focused on
16 exactly where did this op-ed come from, why was it
17 written, was it part of any paid contract. That's what
18 McGinley was trying to get to the bottom of. Because I
19 think the White House was getting -- or I should say
20 the president-elect's office was getting inquiries.

21 Q Were these questions directed at anyone in
22 particular?

23 A Bijan.

24 Q Do you recall how the defendant responded to the
25 question about the op-ed?

Courtovich - Direct

1 A And so the op-ed -- he did say that General Flynn
2 wrote the op-ed and it was his words and it was his
3 belief and his long history and understanding of this
4 issue, that that was his position. So he just wrote it
5 and was passionate to get it and wanted it done on
6 Election Day.

7 Q Okay. How did the defendant respond to the
8 question of whether anyone paid for the op-ed?

9 A So there wasn't a -- I expected a response to --
10 that was Inovo who paid for the contract. But, again,
11 the position with FIG was that this was actually
12 written outside the contract. This was just something
13 the General decided to do independent from what the
14 project was, which was -- but still, McGinley wanted to
15 know about the Inovo project, and the flow came
16 directly on the contract. And there wasn't an
17 immediate or direct answer to that.

18 Q From whom?

19 A From Bijan.

20 Q So when you say there wasn't an immediate or
21 direct answers, what do you mean?

22 A I just remember being concerned that with the
23 pause of what I thought up to that point would be a
24 very easy answer, Inovo -- and then I'm thinking, well,
25 maybe it came from -- because Bijan has -- not Bijan.

Courtovich - Cross

1 I'm sorry. Ekim has -- at that point, we had known he
2 had, you know, at least a dozen companies. If it came
3 from this company or Company Y.

4 So I asked Bijan: Where did the money -- which
5 company did it come from? And then I had said: I
6 think we should get Ben Ginsberg, my lawyer.

7 And McGinley used to be my lawyer at Jones Day.
8 So I said: Let's get Ginsberg on the phone.

9 And then that's when McGinley said: I think we
10 have a conflict here. Let's hang up.

11 And that ended the call.

12 Q Mr. Courtovich, was Sphere paid for its work on
13 this project?

14 A Yes.

15 Q How much were you paid?

16 A In total, \$40,000. The first contract was 30, and
17 then Bijan paid us an extra 10,000, as he said, for the
18 extra work that was being done and the extra attention
19 to the account.

20 MR. GILLIS: One moment, Your Honor.

21 (Counsel confer.)

22 MR. GILLIS: That's all I have, Your Honor.

23 THE COURT: All right. Ms. Mitchell.

24 MS. MITCHELL: Thank you, Your Honor.

25 CROSS-EXAMINATION

Courtovich - Cross

1 BY MS. MITCHELL:

2 Q Good morning.

3 A Good morning.

4 Q How are you?

5 A I'm fine.

6 Q My name is Stacey Mitchell. I'm representing
7 Bijan Rafiekian. We have not spoken before; have we?

8 A No.

9 Q Okay. I am going to walk through a series of
10 questions predominantly focused on following up on some
11 of the direct examination.

12 You were asked at the beginning of your direct
13 testimony about a comparison that Bijan has made
14 between Ayatollah Khomeini and Gulen.

15 A Uh-huh.

16 Q You explained the allegory of Khomeini, and then
17 you said the rest is history. Would you explain the
18 history of Khomeini. Don't take forever. Take a short
19 brief moment. Some of the jurors may not be familiar
20 with his role in Iran.

21 A Sure. Well, during the fall of the shah of Iran's
22 regime in coming to America, Ayatollah Khomeini took
23 power, took a very aggressive position against the
24 United States, took American hostages that were held
25 for more than a year, and drove a growing anti-American

Courtovich - Cross

1 fever in Iran that we still see today.

2 Q Are you familiar where Bijan is originally from?

3 A Yes.

4 Q Where is that?

5 A Iran.

6 Q And you understand that this was something that
7 was --

8 A Very passionate.

9 Q Very passionate about it.

10 Did he share the same concern about the future of
11 Turkey if this were to progress and Gulen were to
12 essentially follow in the same steps as Khomeini did?

13 A I think he thought of it as a concern. I don't
14 think the comparison would be to Iran today but
15 certainly heading in that direction if it went that
16 way. But I don't think we were at complete disaster.

17 Q To be clear, the concern from Bijan was, let's not
18 get there, correct?

19 A Correct.

20 Q All right. Now, talking again about -- you said
21 Sphere was brought in to promote a video?

22 A Correct.

23 Q And it's important to your credibility to make
24 sure that that video is accurate?

25 A Uh-huh.

Courtovich - Cross

1 Q You have to say yes or no.

2 A Yes. Sorry.

3 Q And to make sure that it's bringing something new
4 to the scene, correct?

5 A Correct.

6 Q So you were engaged with the Flynn Intel Group
7 through the person of Graham Miller to make sure that
8 that investigation was going on; is that correct?

9 A Well, I mean, we were there to promote a video,
10 and we're trying to help as much we can along the way
11 to make sure what we end up with can be given to, you
12 know, a significant journalist that would take this and
13 use it as either a -- sometimes it just promotes an
14 idea. Then they go and do their own research, which
15 they always do. But something that really catches
16 their eye.

17 Q Right.

18 A And interest.

19 Q Right.

20 Turning your direction now to your testimony with
21 respect to the Foreign Agents Registration Act and the
22 Lobbying Disclosure Act. This is a significant
23 question at the beginning of the engagement where there
24 are foreign contacts, correct?

25 A Correct.

Courtovich - Cross

1 Q Would you agree the Foreign Agents Registration
2 Act is complicated?

3 A Well, the good thing is you can just call the FARA
4 office, and they'll actually answer the question for
5 you, which saves us a lot of legal bills.

6 But I look at it very simply: You know, it's
7 either you're paid by a government. And if you're
8 indirectly paid, then you just have to -- at the end of
9 it, even with the LDA, you just have to make sure all
10 the parties that you knowingly are helping are on the
11 sheet.

12 The only confusion we have is under the Lobbying
13 Disclosure Act, they have an exclusion. They have an
14 LDA exclusion to FARA. So let's say we represent a
15 foreign airline that's controlled by the country. Then
16 if you show that your work is primarily helping the
17 airline as opposed to the country that owns the
18 airline, then there's that. So that's the only thing
19 that we get concerned about.

20 For the most part, it kind of falls where it
21 falls.

22 Q So a great point. When a business has retained
23 you to promote their interests in a country where
24 business is closely aligned with government, sometimes
25 that distinction can be very difficult to figure out?

Courtovich - Cross

1 A You just make sure that you have documented and
2 can demonstrate from the materials that you're using
3 and the information that you're doing and what you're
4 driving fall into that category. So if we were working
5 for --

6 Q Let me actually stop you and ask you. I think
7 this will --

8 MR. GILLIS: Excuse me, Your Honor. May the
9 witness be allowed to finish his answer?

10 THE COURT: I think he did. You could follow
11 up on that.

12 BY MS. MITCHELL:

13 Q Let me turn you to Defendant's Exhibit 60, if I
14 could, please. I want to highlight the fourth
15 paragraph.

16 A Exhibit 60?

17 Q Yes. Oh, it's in evidence. It will be brought up
18 on the screen.

19 MS. MITCHELL: Actually, let's show the whole
20 page first.

21 This is in evidence, Your Honor.

22 BY MS. MITCHELL:

23 Q If you look at it generally, it appears to be a
24 letter from Covington, is that correct, to Heather Hunt
25 of the FARA registration unit.

Courtovich - Cross

1 A Okay.

2 MS. MITCHELL: If you can, scroll to page 2
3 for the witness' benefit.

4 BY MS. MITCHELL:

5 Q This is signed by Rob Kelner. Going back up to
6 page 1 in paragraph 4 --

7 MR. GILLIS: Your Honor, the same objection
8 was made with respect to the documents that I was
9 trying to show the witness.

10 THE COURT: Right. What's going to be your
11 question? Whether he agrees with the substance?

12 MS. MITCHELL: I'm going to ask him to read
13 the paragraph and ask him if he agrees with it.

14 THE COURT: All right. I'm going to sustain
15 the objection.

16 MS. MITCHELL: You're going to sustain the
17 objection?

18 THE COURT: Yes.

19 MS. MITCHELL: Thank you, Your Honor.

20 BY MS. MITCHELL:

21 Q Let's go back to the Foreign Agents Registration
22 Act and LDA. This was an issue that you were
23 discussing with Bijan at the beginning of your
24 engagement, correct?

25 A Yes.

Courtovich - Cross

1 Q He indicated to you that he was speaking with
2 attorneys; is that correct?

3 A Bob Kelley, their attorney.

4 Q Did you know in advance of that that he had
5 reached out to Rob Kelner at Covington?

6 A No.

7 Q Do you recall having forwarded to Mr. Kian a
8 memorandum, a client alert if you will, drafted by Rob
9 Kelner summarizing FARA?

10 A Yes.

11 Q All right. So you were not aware that after
12 receiving that from you he picked up the phone and
13 called Rob Kelner?

14 A I don't have a memory of it.

15 MR. GILLIS: Assumes facts not in evidence,
16 Your Honor.

17 THE COURT: He answered the question.

18 A Kelner didn't send me that memo. I do a lot of
19 work for Covington. So we get their 800 alerts and
20 whatever. So they came just at the right time, and I
21 forwarded it to Bijan.

22 Q Right. Client alerts, we lawyers send them all
23 the time to try and get business, correct?

24 A Yes.

25 Q So you referred to Bob Kelley. Who is that?

Courtovich - Cross

1 A He is the counsel in FIG.

2 Q You understood in or about September of 2016 that
3 he was researching the question of whether to file a
4 FARA or an LDA?

5 A Correct.

6 Q In fact, Graham Miller from your office --

7 MR. GILLIS: Objection, Your Honor. Well, I
8 beg your pardon. I was premature.

9 THE COURT: Go ahead.

10 BY MS. MITCHELL:

11 Q And Graham Miller from your office was in
12 communication with Bob Kelley; is that correct?

13 A Correct.

14 Q All right. What ultimate decision was made with
15 respect to filing under FARA or the Lobbying Disclosure
16 Act?

17 A LDA.

18 Q All right. In your position, in addition to doing
19 work for clients, you also do a fair amount of business
20 development, correct?

21 A Correct.

22 Q That's really how you get more work and keep
23 Sphere Consulting operating, correct?

24 A Correct.

25 Q As you attempt to get new business, you're hopeful

Courtovich - Cross

1 that you'll get it?

2 A That's correct.

3 Q Sometimes you actually get the business?

4 A Yes.

5 Q And sometimes you don't get it?

6 A That's correct.

7 Q Would you agree it's not uncommon that if you
8 don't get some business, you won't share that
9 information outside Sphere?

10 A What information?

11 Q So if you are pitching a client and you don't get
12 the business, do you tell colleagues outside of Sphere:
13 Hey, we didn't get the business?

14 A I mean, it all depends on, you know, what the
15 circumstances are. It's not something we keep dire
16 secret.

17 Q But you also don't advertise that you didn't get
18 work?

19 A Well, it all depends. So with the trade
20 association, they put you through an RFP process and it
21 goes on and on and on and you spend a ton of resources
22 and at the end they actually don't do the project, you
23 say, Oh, these guys.

24 So there are conversations that -- it's nothing
25 we're ashamed of, I mean, win or lose. Plus, most of

Courtovich - Cross

1 these are competitively bid. So there are four other
2 firms involved, and they know who the other three firms
3 are. And if you don't get it, you don't get it.

4 Q You don't get it?

5 A Yeah.

6 Q But it's not uncommon -- withdrawn.

7 A We talk about our wins more than our losses.

8 Q Okay. When you actually get the work, it's not
9 uncommon for clients to hire you to generate media
10 attention, correct?

11 A Correct.

12 Q And some of those are media attention regarding
13 political figures?

14 A We do mostly -- we work pretty much mostly on the
15 private investment side, but yeah, we do on the other
16 side as well.

17 Q All right. Sometimes that's within the U.S. that
18 you're doing media work for clients?

19 A Correct.

20 Q And sometimes that's foreign?

21 A I'd say about -- it's mostly two-thirds foreign
22 and one-third U.S.

23 Q All right. Fair to say that sometimes the media
24 attention that you're trying to draw to whatever figure
25 is positive and sometimes it's negative?

Courtovich - Cross

1 A Correct.

2 Q All right. There's nothing illegal with any of
3 that; is that correct?

4 A I hope not.

5 Q You follow the law as closely as you can?

6 A Yes, we do.

7 Q Turning your attention now to that November 2
8 meeting with Ekim Alptekin, not a happy meeting,
9 correct?

10 A No.

11 Q And your takeaway from that meeting was that FIG
12 and, as a result, Sphere were not meeting Ekim
13 Alptekin's objectives?

14 A Well, once I conferred with Graham -- so ten
15 minutes later I walked away from that meeting thinking
16 that Ekim had a completely different playbook in his
17 mind and was expecting a completely different set of
18 outcomes than a \$40,000 promotion of a video.

19 What he was talking about would be a \$2 million,
20 \$3 million massive effort campaign, a legal strategy
21 activity to actually get him where he wanted to be.

22 Q So a very expensive project?

23 A Exactly.

24 Q All right. And for a substantially reduced
25 budget, one would get something more akin to what you

Courtovich - Cross

1 thought was going to be happening, namely, a
2 documentary style video and some media attention
3 associated with that, correct?

4 A So I went in there, you know, still under the
5 umbrella of promoting private investment in Turkey by
6 private business people. And then this cat jumped out
7 of the bag and, you know, I just didn't know what to do
8 with it. And throughout, as we sat there, I tried to
9 figure out, as we always do, how we can get there.

10 And I just kind of put the video out of mind. At
11 this point, I was nervous about the video, that
12 whatever came out would be a disaster. So I said,
13 well, let's focus on getting the government involved
14 with this and let's focus on putting together a real
15 plan to get them where they need to be if this is where
16 they want to go.

17 Q And that was -- you were hoping that that would
18 happen in the future?

19 A Correct.

20 Q All right. Turning your attention to -- well,
21 following up on that. So as you left that meeting, you
22 thought 1782 discovery process would make some sense?

23 A Exactly.

24 Q And you put together a memo that we looked at
25 earlier?

Courtovich - Cross

1 A Yes.

2 Q Do you recall the date of that memo?

3 A Yes.

4 MS. MITCHELL: If we could, display
5 Government Exhibit 129, please.

6 A November 6.

7 Q I'm sorry?

8 A November 6, 2016 -- oh, the 8th.

9 Q Great. What was happening on November 8, 2016?

10 A Election.

11 Q And you sent that memo to FIG to the person of
12 Bijan at some point presumably after you finished
13 drafting it?

14 A Correct.

15 Q So it happened either on November 8 or in the
16 following days?

17 A Yeah. I'd have to see the e-mail to know which
18 day it was sent.

19 Q And you've testified before you never got a
20 response from the defendant to that; is that correct?

21 A He could have e-mailed me back that he received
22 it, but there was never a green light: Let's do this,
23 or I think we can move forward with this.

24 Q Okay. But as it turns out, starting on
25 November 9, FIG was winding down their business;

Courtovich - Cross

1 weren't they?

2 A I think they were going to wind down at one point
3 one element of FIG and keep two open. It was fluid as
4 to -- I don't remember the final decision. But I don't
5 remember the day after that being the case but I
6 don't...

7 Q But you don't really recall?

8 A There was a lot going on the day after the
9 election. People were trying to assess a lot of
10 things, and so I can't recall. I just remember -- we
11 were in -- you know, a lot of contact. Bijan was
12 coming to our office. And so we were talking about
13 this even if it didn't -- you know, and moving forward
14 in that direction.

15 The Flynn stuff I remember -- I don't think -- I
16 think it was soon after the election they said they
17 were going to close one aspect of it but two were going
18 to stay open. Eventually, it was all to be closed.

19 Q Okay. All closed.

20 Is it fair to say that November 9 at the Flynn
21 Intel Group was a different day than November 7 with
22 respect to its marque partner, General Flynn?

23 A I never went back there after the election. So I
24 don't know what happened.

25 Q Do you understand that General Flynn became the

Courtovich - Cross

1 national security advisor to then --

2 A Yes, I was of aware of that. But don't forget.

3 That doesn't mean you have -- if your principal goes in
4 to the government as a national security advisor, that
5 doesn't mean your company is going to close. It could
6 actually raise and rise in stature. I wasn't
7 automatically thinking this would lead to the closing
8 of Flynn Intel Group. It could lead to, you know,
9 growth.

10 Q Okay. Did you understand -- withdrawn.

11 You referenced previously that after not moving
12 forward with respect to the 1782 process with Flynn
13 Intel Group, at some point later, you then reached out
14 on your own to Ekim Alptekin. Is that correct?

15 A We sent it to him directly, but it wasn't like --
16 we weren't going around anyone. It was more of we're
17 talking to Bijan. We want to get the ball moving.
18 But, you know, they had a lot of things going on, and I
19 had promised to Ekim that we'd get back with some more
20 background on the 1782. So we just moved the ball
21 forward, but we were in communication with Bijan as
22 well. It wasn't independent.

23 Q Okay. Do you recall about when -- well,
24 withdrawn.

25 MS. MITCHELL: Could I have the witness shown

Courtovich - Cross

1 Defense Exhibit 37. It's not in evidence.

2 THE COURT: Defense Exhibit 37?

3 MS. MITCHELL: Yes, Your Honor.

4 A Uh-huh.

5 Q Does that refresh your recollection as to when you
6 reached out to Mr. Alptekin on this 1782 process?

7 A This is the earlier memo. This was January -- or
8 December, yeah.

9 Q All right. So when did you reach out to him?

10 A On this e-mail, this is December 14. I
11 remember --

12 Q That's all I needed to know.

13 A Okay.

14 Q So you reached out to Ekim, and you sent him a
15 proposal with respect to 1782 in December of '16?

16 A Uh-huh. I just can't guarantee that I hadn't
17 reached out to him before this in between. So I just
18 want to be accurate.

19 Q Okay. But that was certainly a day in which you
20 did it formally, correct?

21 A Yeah. I'm not sure if this is a follow-up or the
22 first.

23 Q Okay. And then at some point, you learned --
24 actually, you talked about this before, that after
25 sending this to Ekim, the next thing that happened was

Courtovich - Cross

1 you got an e-mail from the government of Turkey.

2 A That I remember as the most significant. There
3 could have been something else that popped up, but that
4 was the one I remember.

5 Q So do you remember that, in fact, Mr. Alptekin
6 said to you: I think the government of Turkey might be
7 interested in this?

8 A Well, I don't remember that, but it very well --
9 well, he was encouraging. He goes, Let me get this to
10 the right people.

11 And he very well could have then said, I think
12 this is positive.

13 But clearly, our communications with Ekim is what
14 led to the outreach from the embassy because they just
15 wouldn't have reached out to us otherwise.

16 Q So Ekim was telling you he could put you in touch
17 with the government of Turkey?

18 A Well, we had asked him to. We had said, If this
19 is where you want to go, you need to bring this to the
20 government's attention.

21 Q And so he said, I can put you in touch with the
22 government of Turkey? I can help with that?

23 A Not immediately. But, yeah, it was clear that he
24 was going to bring this back to whoever he knew in
25 government and try to move the ball forward.

Courtovich - Cross

1 Q And then at some point, he clearly was successful
2 because you received an e-mail from the government of
3 Turkey, correct?

4 A That's correct.

5 Q A direct communication to you from the government
6 of Turkey saying, We are interested in talking to you
7 about this RFP?

8 A So as I understand it, they had an open RFP
9 process at the time that had, I think, either closed or
10 was close to being closed. They did a request for
11 information and then a request for proposal. I think
12 they were in that process.

13 What we got from -- I believe from the embassy, if
14 not Ekim, saying, Hey, we're going to get you added to
15 this process even though it's past the addition point.

16 Q So you actually had communications with the
17 government of Turkey?

18 A Only when they reached out to us saying come to
19 this and present from the deputy chief of mission, I
20 believe, or his assistant at the Turkish embassy in
21 Washington.

22 Q In advance of that, you put together pitch
23 material, correct?

24 A Correct, a full presentation.

25 Q And let me direct your attention to Defendant's

Courtovich - Cross

1 Exhibit 51 in evidence and have you take a look at
2 that. It will appear on your screen for you.

3 A Uh-huh.

4 Q Do you recognize that? What is that?

5 A It's our proposal, overview.

6 Q Do you recall the budget for that piece of work?

7 A So we were told the budget should be for a project
8 this size, I think, \$4 million.

9 Q Okay. In fact, after having e-mail
10 communications, did you, in fact, go to the embassy of
11 Turkey to --

12 A Our whole team did.

13 Q I'm sorry. Say that again.

14 A Our whole team did. Twelve people went over
15 there.

16 Q Then did you end up getting the work?

17 A No.

18 MS. MITCHELL: May I have a moment, Your
19 Honor?

20 THE COURT: Yes.

21 (Counsel confer.)

22 BY MS. MITCHELL:

23 Q Mr. Courtovich, at some point, did you become
24 aware that Robert Amsterdam had been doing similar work
25 with respect to Gulen?

Courtovich - Cross

1 A His name has popped up and -- but not anything
2 specific that I remember.

3 Q Do you know that he had been retained in --

4 MR. GILLIS: Objection, Your Honor. It
5 assumes facts not in evidence.

6 THE COURT: I'll let her ask the question.

7 BY MS. MITCHELL:

8 Q Do you know that he had been retained by the
9 government of Turkey to do work on behalf of the
10 government of Turkey beginning in as early as December
11 2015?

12 A The only thing I heard about him -- or I should
13 say the -- when we reached out to Luis Botts
14 (phonetic), the law firm, to help us write the 1782
15 petition -- because I had done a few -- or one 1782
16 petition with our senior partner in New York -- they
17 had the information of all the affiliates.

18 If you look at the 1782 memo, there are a lot of
19 affiliates of the Gulen school. And so they had that
20 knowledge because they were either working with him or
21 were involved with him. And it was not relative to
22 Turkey, but it was some gold trader from Turkey in a
23 New York jail or something. I forget the specifics.
24 So they had this -- we've never had an affiliation with
25 Amsterdam, but Luis Botts had knowledge or affiliation.

Courtovich - Redirect

1 I don't remember the two.

2 Q So from the first meeting you had at FIG --

3 A Uh-huh.

4 Q -- in August through, let's say, the November 2
5 meeting, did you have any awareness of Robert
6 Amsterdam's work on behalf of Turkey?

7 A You know, I could have seen his name, but I wasn't
8 day-to-day on the project. So if his name popped up,
9 it wouldn't have been of note.

10 MS. MITCHELL: May I have one more moment,
11 Your Honor?

12 THE COURT: Please.

13 (Counsel confer.)

14 MS. MITCHELL: Nothing further.

15 THE COURT: All right. Any redirect?

16 REDIRECT EXAMINATION

17 BY MR. GILLIS:

18 Q Mr. Courtovich, you mentioned the project that you
19 ultimately made the pitch to the Turkish embassy about.
20 Did you say that that had been closed?

21 A Well, it was -- I'd say it's pretty far along in
22 the process of other firms presenting their
23 qualifications. And so they weren't -- if we had just
24 gone and rang the doorbell and said, "Hey, we have a
25 presentation for you," they would've said, you know,

Courtovich - Redirect

1 "Thanks, but we're coming to our decision."

2 Q I see. Did anyone help you to get past just
3 ringing the doorbell?

4 A I believe it was Ekim. And we were -- and it
5 wasn't just Ekim and I. But, you know, we were in
6 conversations with Bijan as well during this whole
7 process.

8 MR. GILLIS: Would you mind putting the last
9 exhibit, Exhibit 51, up.

10 BY MR. GILLIS:

11 Q Now, you were saying that essentially, if I
12 understand it, you gave this memorandum of yours to
13 Alptekin. The next thing that's happening is that you
14 get an e-mail from the deputy minister of station or --
15 at the Turkish embassy.

16 A The DCM we call them.

17 Q DCM?

18 A (Nods head up and down.)

19 Q Okay. And then Ekim and the defendant allow you
20 to get in the door; is that correct?

21 A Yes, correct.

22 Q All right. In this e-mail that you were asked
23 about --

24 MR. GILLIS: Could you just zoom in on the
25 e-mail for the two lines, just that one line that has

Courtovich - Redirect

1 two.

2 BY MR. GILLIS:

3 Q Now, could you read the domain name of that e-mail
4 after the @ sign.

5 A mfa.gov.tr.

6 MR. GILLIS: That's all I have, Your Honor.

7 Thank you very much.

8 THE COURT: All right. May the witness be
9 excused?

10 MR. GILLIS: Yes, sir.

11 THE COURT: All right. Mr. Courtovich,
12 you're excused. Do not discuss your testimony outside
13 of the courtroom with any other witness.

14 THE WITNESS: Thank you.

15 (The witness stands aside.)

16 THE COURT: Ladies and gentlemen, we're going
17 to take our morning recess at this time. You're
18 excused until 11:45. Do not discuss this case among
19 yourselves during the recess.

20 (The jury exits at 11:28 a.m.)

21 THE COURT: All right. Who is the
22 government's next witness?

23 MR. GILLIS: Our next and last witness is
24 Special Agent Alfredo, Your Honor.

25 THE COURT: All right. We'll deal with that

1 issue before you call him when we reconvene.

2 All right. The Court will stand in recess.

3 (Recess from 11:29 a.m. until 11:56 a.m.)

4 (The jury is not present.)

5 THE COURT: Mr. Gillis, with respect to
6 Special Agent Alfredo, it's still not clear to me what
7 you contemplate doing with him relative to the exhibits
8 that are already in evidence that you've identified.

9 MR. GILLIS: Well, Your Honor, if I may have
10 a moment.

11 For example, Exhibit 17 -- and I believe the
12 exhibit before that is --

13 THE COURT: Well, you have listed Exhibit 16,
14 which --

15 MR. GILLIS: Sorry. Exhibit 16.

16 THE COURT: -- you've posted before the jury
17 several times and have had read to the jury several
18 times. What would you have this witness do with
19 Exhibit 16?

20 MR. GILLIS: Only to orient the jury as to
21 time. So the green light e-mail is on August 10. The
22 Confidence Through Clarity e-mail is August 11, and
23 that was just to orient them as to the change from the
24 10th to the 11th.

25 THE COURT: Would this be in the context of

1 other documents that he's going to talk about, or do
2 you simply want him to go through these exhibits and
3 make observations about how they relate to each other?

4 MR. GILLIS: No. No. Apart from that, just
5 to say, you know, we talked about the green light
6 e-mail. Can you remind us of what the date is of that?

7 Then after that is the Confidence Through
8 Clarity e-mail. Can you remind us what the date is of
9 that.

10 Then there's nothing more that's summary
11 about that. It's just simply to orient the testimony
12 so that what he's about to say makes sense.

13 For example, his testimony as to Government's
14 No. 17 is that Confidence is the first time -- the
15 first use of that term in all of the e-mails that have
16 been produced in this case, and that is a significant
17 point, obviously. So that testimony is not summary.
18 It's simply a factual testimony. But to make sure that
19 it makes sense to the jury, to show that this is
20 happening on August 11, we would like simply to remind
21 them that the green light e-mail was the evening
22 before.

23 So that basically is all that I plan to do
24 with those two exhibits.

25 THE COURT: What new documents is he going to

1 reference?

2 MR. GILLIS: What new documents is he going
3 to reference, Your Honor?

4 THE COURT: Yes.

5 MR. GILLIS: Well, he will introduce
6 Government Exhibit 8A, which is simply a substitution
7 of a previous government's exhibit that we had given to
8 the defense but we had not introduced. What the Court
9 may still have is just a screenshot of that e-mail.

10 MR. TROUT: We will stipulate to the
11 substitution, Your Honor.

12 THE COURT: All right.

13 MR. GILLIS: That's fine, Your Honor. I
14 don't need to ask any questions about 8A if it's in
15 evidence.

16 THE COURT: All right.

17 MR. GILLIS: Then, for example, a new exhibit
18 will be Exhibit 103B. 103A, Your Honor, is already in
19 evidence.

20 THE COURT: All right. And 103B Mr. Lowman
21 went through in some detail.

22 MR. GILLIS: No, Your Honor. This is new.

23 THE COURT: 103B?

24 MR. GILLIS: I take that back, Your Honor. I
25 beg your pardon. No. 103B I don't need. That was not

1 my -- I'm sorry.

2 Oh, I beg your pardon, Your Honor.

3 15A is not yet in evidence. 15A, Your Honor,
4 is a *New York Times* article that was -- the length of
5 which was contained in an e-mail that's already in
6 evidence from Alptekin to the defendant and Flynn in
7 which he said: This is the depth of the crisis that we
8 are facing, colon, link to a *New York Times* article.

9 This *New York Times* article is essentially
10 part of that document. The agent will testify that he
11 went to that link and this is the article that he
12 found, that was being sent by Alptekin to the
13 defendant.

14 THE COURT: All right. And so what do you
15 want him to say about any other document based on this
16 document?

17 MR. GILLIS: Based on this document?

18 THE COURT: Yes.

19 MR. GILLIS: I would like -- with this
20 document --

21 THE COURT: Well, you want to present him as
22 a summary witness.

23 MR. GILLIS: Actually --

24 THE COURT: I don't think that's an accurate
25 description of what you're proposing. You're not

1 asking him to summarize voluminous documents by saying
2 what's entered in voluminous documents. You want him
3 to simply provide the jury with a chronological
4 narrative of these documents.

5 MR. GILLIS: It is certainly not a summary,
6 Your Honor. I think that's the characterization that
7 was given by the defense. To the extent we accept
8 that --

9 THE COURT: All right.

10 MR. GILLIS: If I may, Your Honor. So he
11 will not be putting numerous documents in chronological
12 order and telling some story about it. It is simply
13 to -- he has a great deal of factual evidence from his
14 own observations relevant to this prosecution that he
15 will talk about. To put what he talked about in
16 context, it's necessary for the jury to know where that
17 comes from.

18 So, for example, as I said -- so this is an
19 article. This is a new article. Do we have any
20 problem with him talking about this new exhibit?

21 THE COURT: I don't know if there's going to
22 be an objection or not. I wouldn't think so.

23 MR. TROUT: No, Your Honor. As far as I'm
24 concerned, it can come into evidence.

25 THE COURT: All right.

1 MR. GILLIS: I beg your pardon, Your Honor.

2 THE COURT: What I'm not going to allow you
3 to do is what you were suggesting at the beginning,
4 which is, through this agent, to have him simply go
5 through the evidence and, quote, remind the jury that
6 this document was on X date, this document was on Y
7 date, and take him through the evidence that's already
8 here. That's not really a witness. That's not a
9 witness who is presenting facts to the jury. That's
10 simply a summary or a preview of your closing argument.

11 MR. GILLIS: So for the two exhibits that I
12 mentioned, the green light exhibit versus the --

13 THE COURT: If the only purpose is to have
14 this witness get on the stand and say, Here's
15 Exhibit 16. This is the green light memo. Remember,
16 this is the green light memo on X date. Then, I want
17 you to next look at this memo. The next day, This is
18 the XYZ memo just so you know that those are there.
19 We're not going to do that.

20 MR. GILLIS: Okay, Your Honor. Understood.

21 THE COURT: All right.

22 MR. GILLIS: Yes, sir.

23 THE COURT: All right. Do you still need to
24 call Agent Alfredo?

25 MR. GILLIS: Oh, yes. Yes.

1 THE COURT: All right. Let's call him.

2 MR. GILLIS: Your Honor, will you indulge me
3 a few minutes during the testimony as I reorient things
4 somewhat?

5 THE COURT: Yes.

6 MR. GILLIS: Thank you.

7 (The jury enters at 12:05 p.m.)

8 THE COURT: All right. Have a seat, please.

9 The government will call its next witness.

10 MR. GILLIS: Thank you, Your Honor.

11 I beg your pardon, Your Honor. There's one
12 question I have. If we could just approach briefly.

13 THE COURT: Yes.

14 (Conference at the bench, as follows:)

15 THE COURT: Yes.

16 MR. GILLIS: I'm sorry, Your Honor. I don't
17 want to run afoul of the Court's order.

18 THE COURT: That's all right.

19 MR. GILLIS: So, for example, I -- not for
20 example. My concern is the *New York Times* article, you
21 recall, comes from an exhibit where there's a link to a
22 *New York Times* article that he found.

23 THE COURT: Right.

24 MR. GILLIS: I would like to be able to start
25 with that to show that's a link and have him testify

1 that's the link he followed.

2 THE COURT: Yeah. I don't see a problem with
3 that.

4 MR. GILLIS: Thank you, Your Honor.

5 (Proceedings continued in open court, as follows:)

6 THE COURT: Your next witness.

7 MR. GILLIS: Your Honor, it's Special Agent
8 Bryan T. Alfredo.

9 THE COURT: All right. Agent Alfredo will
10 come forward, please.

11 BRYAN T. ALFREDO, PLAINTIFF'S WITNESS, AFFIRMED

12 DIRECT EXAMINATION

13 BY MR. GILLIS:

14 Q Sir, would you please tell us your name.

15 A Bryan T. Alfredo.

16 Q Mr. Alfredo, where do you work?

17 A With the FBI.

18 Q And what's your position there?

19 A Special agent.

20 Q How long have you been with the Federal Bureau of
21 Investigation?

22 A September 2012.

23 Q What did you do before joining the FBI?

24 A I was and still am in the United States Air Force.

25 Q What's your rank there?

Alfredo - Direct

1 A Major.

2 Q And you've been a pilot in the Air Force?

3 A Yes, sir.

4 Q What aircrafts do you fly?

5 A I flew a C-130.

6 Q Would you please take a look at Government

7 Exhibit 15, which is in evidence. This is an e-mail

8 from Alptekin to Flynn and the defendant on August 4.

9 It says there: "This article shows the depth of the
10 crisis we are facing," and then it shows a link there.

11 Do you see that?

12 A Yes, sir.

13 Q Could you please take a look at Government

14 Exhibit 15A?

15 A Okay.

16 Q Can you tell us what that is?

17 A It's an editorial in the *New York Times*.

18 Q And how did you find that editorial?

19 A It was attached to the e-mail, the link.

20 Q It was the link that you followed?

21 A Yes, sir.

22 MR. GILLIS: I move to admit the exhibit,

23 Your Honor, 15A.

24 THE COURT: Without objection, Exhibit 15A is
25 admitted.

Alfredo - Direct

1 BY MR. GILLIS:

2 Q If you could, please take a look on the second
3 page of that. First of all, who is this article
4 written by or opinion written by?

5 A The Editorial Board.

6 Q Of?

7 A The *New York Times*.

8 Q And if you turn to the second page, please, would
9 you please look at the last two full paragraphs there.
10 Could you read those to the jury, please.

11 A Yes: "American officials assume, with good
12 reason, that Mr. Erdogan is ratcheting up his criticism
13 to press Washington to comply with his demand that
14 Mr. Gulen, a former ally who broke with him a few years
15 ago, be extradited to Turkey. Turkey has given the
16 administration documents but no formal legal request
17 for extradition, and so far the Americans see no
18 evidence that Mr. Gulen was culpable.

19 "The Turks need to be reminded that Mr. Gulen has
20 a legal right to be in the United States, and that the
21 Justice Department would have to go through a rigorous
22 process before deciding whether he could be handed
23 over, especially to a country where due process is
24 increasingly unlikely and torture is reportedly used
25 against detainees."

Alfredo - Direct

1 Q Going back to the header of Exhibit 15, please,
2 could you tell us, what's the subject of the e-mail
3 that included that link?

4 A Truth.

5 Q Special Agent Alfredo, are you the lead case agent
6 on the investigation that brings us to court today?

7 A Yes, sir.

8 Q Would you please take a look at Government Exhibit
9 20A -- no. I beg your pardon, Your Honor -- Government
10 Exhibit 20.

11 A Okay.

12 Q Do you see there a reference -- first of all, what
13 is the date of that text message?

14 A August 25, 2016.

15 Q And could you read to us that Skype chat, please.

16 MR. TROUT: Your Honor, objection. I think
17 this is --

18 THE COURT: There's no need for that. This
19 is already in evidence. The jury has already been
20 taken through this message.

21 MR. GILLIS: I apologize, Your Honor.

22 MR. TROUT: Could we take that down, please.

23 MR. GILLIS: Your Honor, if I could ask the
24 Court to take judicial notice of the fact that the
25 Third Bridge over the Bosphorus opened for the first

Alfredo - Direct

1 time on August 26, 2016.

2 THE COURT: The Court will take judicial
3 notice of that fact.

4 BY MR. GILLIS:

5 Q Now, what e-mail address did Alptekin use to
6 communicate with the defendant and others at FIG, with
7 Sphere, and with others that were involved in this
8 Turkey project?

9 A Kian@flynnintelgroup.com.

10 Q No. I'm sorry. Alptekin?

11 A Ekimalptekin@gmail.com.

12 Q And in your investigation of all the evidence in
13 this case, do you recall seeing any other e-mail
14 address for Alptekin that he used in connection with
15 the Turkey project?

16 A No, sir.

17 Q Did the government obtain a search warrant for
18 Alptekin's Gmail account?

19 A Yes, sir.

20 Q And approximately how many e-mails were in the
21 Alptekin Gmail account?

22 A Approximately 400,000.

23 Q And for the period that's charged in this case
24 between June 2016 and March 2017, about how many
25 e-mails were there in Alptekin's Gmail account for that

Alfredo - Direct

1 time?

2 A Approximately 13,000.

3 Q What e-mail address did the defendant use to
4 communicate with Alptekin and those at FIG and Sphere
5 concerning the Turkey project?

6 A Kian@flynnintelgroup.com.

7 Q And did he use another e-mail address?

8 A Bijankian@gmail.com.

9 Q Did the government obtain a search warrant for the
10 defendant's Gmail account?

11 A Yes, sir.

12 Q Approximately how many e-mails were there in the
13 defendant's Gmail account?

14 A Approximately 400,000.

15 Q For this period charged in the indictment from
16 June '16 to March '17, about how many e-mails were
17 there in the defendant's Gmail account for that time?

18 A Approximately, between 13,000 to 14,000.

19 Q Now, I'd ask you to please take a look at
20 Government Exhibit 17. Take a moment to read that if
21 you would.

22 What's the significance of that sentence?

23 MR. TROUT: Objection, Your Honor.

24 THE COURT: Sustained. You need to ask a
25 fact-based question.

Alfredo - Direct

1 BY MR. GILLIS:

2 Q Special Agent Alfredo, what, if any, e-mails did
3 you see in your investigation of this case, including
4 all the Gmails from the defendants and Alptekin's
5 account -- what, if any, e-mails did you see that
6 mentioned "Confidence" in connection with this Turkey
7 project?

8 A There are quite a few where the word "confidence"
9 would be on the subject line and numerous e-mails
10 between the two.

11 Q All right. And with respect to the date of this
12 particular e-mail --

13 A Yes, sir. This was --

14 Q -- preceding --

15 A -- the first time we really started seeing
16 Confidence where it was regarded as Truth before.

17 Q When you say it is really the first time, what do
18 you mean by that? Is it or isn't it the first time?

19 A It was the first time this was -- this term, this
20 buzzword "confidence" was the new word for this
21 project.

22 Q Now, did you perform word searches of Alptekin's
23 Gmail account for certain words based upon the terms
24 used in that sentence?

25 A Yes, sir.

Alfredo - Direct

1 Q And did you perform word searches of the
2 defendant's Gmail account for certain words based upon
3 the terms used in that sentence?

4 A Yes, sir.

5 MR. GILLIS: If I could ask that Government's
6 Exhibit 23A be brought up. If you could, just zoom to
7 the header of that.

8 BY MR. GILLIS:

9 Q Does that e-mail show that there's an attachment
10 to that e-mail?

11 A Yes, sir.

12 MR. GILLIS: You can take that down.

13 BY MR. GILLIS:

14 Q Would you please turn to Government's Exhibit 23B.
15 What is that?

16 A The attachment.

17 Q And what's the title of that document?

18 A Operation Confidence Playbook.

19 Q And if you could turn, please, to page 3 of 23B.

20 A Okay.

21 Q Could you read that last sentence, please.

22 MR. TROUT: Your Honor, I think this is --

23 THE COURT: The last sentence on the page?

24 MR. GILLIS: The last sentence of that

25 paragraph, Your Honor. In fact, we can just zoom to

Alfredo - Direct

1 that one.

2 THE COURT: I'll let him do that.

3 BY MR. GILLIS:

4 Q Read that last sentence to the jury, please.

5 A "As discussed, this effort would be funded
6 directly by private businesses seeking to improve
7 investment in business to drive a stronger economy."

8 Q And if you would, turn to -- well, first of all,
9 let me ask you this: Did you perform word searches
10 based upon the terms used in that sentence?

11 A Yes.

12 Q Would you please turn to page 4 and look at the
13 second bullet. Could you read that to the jury?

14 A "Reestablish international confidence in Turkey's
15 economic fundamentals and highlight the stability of
16 its investment and business environment."

17 Q Okay. Then if you would, please -- this is all
18 part of the playbook attached to that e-mail from the
19 defendant?

20 A Yes, sir.

21 Q So if you would, please turn to the third-to-last
22 bullet on that page. Could you read that to the jury,
23 please.

24 A "Produce and promote a documentary style video
25 that uses fact-based, unbiased information and research

Alfredo - Direct

1 to highlight Fethullah Gulen's network of loyalists and
2 his influence over them and showcase a resilient
3 investment climate in the wake of the recent attempted
4 coup."

5 Q And did you perform word searches based upon the
6 terms used in that portion of the document?

7 A Yes, sir.

8 MR. GILLIS: You can take that down.

9 BY MR. GILLIS:

10 Q Did you search for the term "investment" among
11 those 14,000 e-mails of Alptekin's for the period
12 during the indictment?

13 A Yes, sir.

14 Q And why did you search for that word?

15 A It was mentioned in previous e-mails and in the
16 document that we just discussed right now. It was one
17 of the buzzwords used.

18 Q What did you determine after searching all of
19 those 14,000 or so e-mails?

20 A It was mentioned but not in the terms of the
21 project.

22 Q What do you mean it was mentioned?

23 A So increasing the business confidence, investing
24 with Turkey in the U.S., I did not see those
25 communications back and forth between the defendant and

Alfredo - Direct

1 Ekim.

2 Q After searching the word "investment"?

3 A Yes, sir.

4 Q Did you search for the term "business" among those
5 14,000 e-mails of Alptekin's?

6 A Yes.

7 Q Why did you search for that term?

8 A Again, it was mentioned in the supposed engagement
9 purpose and playbook and previous e-mails. So we
10 searched that.

11 Q All right. And what did you find or not find as a
12 result of that search?

13 A I did not see e-mail communication between the
14 defendant and Ekim where there was mention of
15 increasing the business climates or the business
16 stability between Turkish and U.S. relations.

17 Q Did you search for the term "community" among
18 those 14,000 e-mails?

19 A Yes, sir.

20 Q Why did you search for that term?

21 A As previously stated, it was a word that was
22 mentioned in the playbook or in e-mails or in the
23 engagement purpose.

24 Q What did you determine after that search?

25 A The same thing. I did not observe any

Alfredo - Direct

1 communication between the defendant and Ekim regarding
2 that subject and the Project Confidence.

3 Q Did you search for the term "climate" among those
4 14,000 e-mails of Alptekin's?

5 A Yes, sir.

6 Q What did you determine after that search?

7 A Climate, like some of the other words, would
8 populate, but it was in terms of, like, the global
9 climate. But I did not see anything regarding
10 increasing the business climate in Turkey or improving
11 the climate between U.S. and Turkey relations.

12 Q For example, if there was a mention of global
13 climate change, that would hit as well?

14 A Yes, sir.

15 Q Okay. Did you look at even those e-mails where it
16 mentioned global climate to see if there was any
17 relationship to the project?

18 A Yes, sir.

19 Q After searching for "climate" through all of these
20 e-mails, what is that you determined?

21 A As I just stated, I didn't see any communication
22 between the two where there was talk of increasing the
23 business climate between the U.S. and Turkey.

24 Q Did you search for the term "tourism" among the
25 14,000 e-mails?

Alfredo - Direct

1 A Yes, sir.

2 Q And?

3 A I did not see discussions between the defendant
4 and Ekim where there was a goal to increase the tourism
5 in Turkey.

6 Q And did you search for the term "hotel"?

7 A Yes, sir.

8 Q What did you find after that search?

9 A Again, "hotel" was populated numerous times for
10 hotel registrations and confirmations, but I did not
11 see anything about -- I did not observe any
12 communication between the two, the defendant and Ekim,
13 regarding hotel business in Turkey.

14 Q Nonetheless, when "hotel" came up in your search,
15 you read each of those e-mails?

16 A Yes, sir.

17 Q Now, did you search for the term "Skype"?

18 A Yes, sir.

19 Q And what did you find among the e-mails of
20 Alptekin's? Well, actually, let's just cut that short
21 and say the e-mails between the 28,000 or so e-mails
22 between the defendant and Alptekin. What did you find
23 when you searched for the term "Skype"?

24 MR. TROUT: Your Honor, just to clarify, I
25 don't think he said --

Alfredo - Direct

1 THE COURT: Yeah. Mr. Gillis, would you
2 clarify? You're not suggesting that this witness has
3 said there's 28,000 e-mails between Alptekin and --

4 MR. GILLIS: No. I beg your pardon, Your
5 Honor. I misspoke. I did not mean to give that
6 impression, and I apologize.

7 BY MR. GILLIS:

8 Q So did you search, let's say, the 27,000-28,000
9 e-mails approximately that were in the accounts of the
10 defendant and Alptekin for the term "Skype"?

11 A For the date frame that we discussed, yes.

12 Q Okay. The charges -- the date frame of the
13 charges in the indictment?

14 A Yes, sir.

15 Q What did you find when you searched for that term?

16 A There's numerous mentions of Skype in both
17 accounts, whether it be trying to set up a Skype
18 communication --

19 Q Those were communications between any particular
20 people?

21 A So the e-mails between Ekim and the defendant, I
22 did observe Skype populate multiple times in reference
23 to missed calls or trying to coordinate Skype chats at
24 a later time.

25 Q Now, did you search for the term "refund" among

Alfredo - Direct

1 Alptekin's 14,000 e-mails?

2 A Yes, sir.

3 Q Why was that?

4 A "Refund" was searched because that's what -- we
5 were told that that's what the 20 percent back was for,
6 was for the refunds.

7 Q And when you searched for the term "refund" in
8 Alptekin's e-mails, what did you find?

9 A I did not find anything with refunds in Alptekin's
10 e-mails unless it was a refund for, like, an expense of
11 some sort, but nothing regarding the -- between Ekim
12 and the defendant.

13 Q Okay. So in all of Alptekin's e-mails, you didn't
14 find any mention of any of those terms in connection
15 with the Turkey project; is that right?

16 A No, sir.

17 Q That's not right?

18 A No. You're correct. I did not see that in
19 relation to the Turkey project.

20 Q Would you please turn to Exhibit 93B and turn to
21 the third page of 93B. If you would, just focus on
22 that last sentence there. First of all, before we get
23 started with that, what is 93B, please?

24 MR. GILLIS: Could we go to the first page
25 there and just zoom in on the top half.

Alfredo - Direct

1 BY MR. GILLIS:

2 Q What is 93B?

3 A It's a letter from Arent Fox.

4 Q And who is it addressed -- well, we'll leave it at
5 that.

6 So if you would, turn to page 3 of 93B, what is it
7 that the Arent Fox letter says at the bottom there?

8 Could you read that to the jury, please, the last two
9 sentences, if you would.

10 A "Mr. Alptekin argued Inovo should be reimbursed
11 for part of the retainer since both the lobbying and PR
12 components never materialized. Inovo never hired
13 Sphere Consulting."

14 Q All right. So having read that, did you --

15 MR. GILLIS: May I have a moment, Your Honor?

16 BY MR. GILLIS:

17 Q Having read that, did you search for the term
18 "reimburse" or "reimbursement"?

19 A Yes, sir.

20 Q And you searched all of Alptekin's 14,000 e-mails
21 for the period of the indictment?

22 A Yes, sir.

23 Q What did you find?

24 A I did not see mentions of reimbursements or
25 reimburse in reference to the Turkey project.

Alfredo - Direct

1 Q Did you also perform a word search of the
2 defendant's e-mails in his Gmail account for the period
3 alleged in the indictment?

4 A Yes.

5 Q And there were 13 or 14,000 e-mails there?

6 A Approximately.

7 Q And did you do a search for the same terms that we
8 just went through for the Alptekin 14,000 or so
9 e-mails?

10 A Yes, sir.

11 Q And what results did you find after those
12 searches?

13 A The same.

14 Q And that is what?

15 A Regarding the terms that you asked me about, I did
16 not observe communication between the two in reference
17 to the Turkey project.

18 Q But if you found a hit for any of those terms, did
19 you read each of those e-mails?

20 A If the term populated, I read the e-mail, yes.

21 Q When you say "populated," what do you mean by
22 that?

23 A Like a control find function. If you type in
24 "Skype" and Skype pops up, I would read the article or
25 read the e-mail.

Alfredo - Direct

1 Q Okay. I got it.

2 In particular, with respect to the word "refund,"
3 did you find any mention of that word in the
4 defendant's e-mails -- Gmail account?

5 A Yes, in terms of, you know, refund for an expense
6 but nothing in relation to this project that we've been
7 talking about or in communication with Ekim.

8 Q And how about the term "reimburse" or
9 "reimbursement"?

10 A The same.

11 Q Just to be clear, tell us what the same is.

12 A I did not observe communication between the two
13 regarding that term.

14 Q Do you recall FBI Forensic Examiner Rosecrans
15 testifying that he found Skype chats on the defendant's
16 laptop?

17 A Yes, sir.

18 Q Did you perform the same word searches on those
19 Skype chats?

20 A Yes, sir.

21 Q Did you search for the term "confidence" in the
22 Skype chats?

23 A Yes, sir.

24 Q If you could, turn to Government Exhibit 41,
25 please. Did you find "confidence" in this particular

Alfredo - Direct

1 document?

2 MR. TROUT: Your Honor, objection. I think
3 this runs afoul of the --

4 THE COURT: What was the question?

5 MR. GILLIS: Well, Your Honor, he said he
6 searched for the term "confidence." He found it once
7 among the Skype chats.

8 THE COURT: This is the document. All right.
9 I'll let you ask this question.

10 BY MR. GILLIS:

11 Q So if you look at that last one down there, would
12 you read that to the jury, please.

13 A I mean credibility in Turkey. Actually, MC's guy
14 who is read into Project Confidence advised me to
15 include an op-ed that FIG would get published under my
16 name, but I didn't raise it as his advice aims to help
17 me score points in Turkey more than anything else.

18 MR. TROUT: Your Honor, could we ask for a
19 limiting instruction on that.

20 THE COURT: Yes. Again, ladies and
21 gentlemen, this is simply admitted for the purpose of
22 showing what information was conveyed to Mr. Rafiekian
23 and not as proof of the truth of what's contained in
24 that statement.

25 BY MR. GILLIS:

Alfredo - Direct

1 Q Now, how many chats did you find that mentioned
2 "investment," chats between the defendant and Alptekin?

3 A I don't recall seeing any.

4 Q How many chats did you find that mentioned
5 "business"?

6 A I don't recall seeing any.

7 Q How many did you find that mentioned "climate"?

8 A I don't recall seeing any.

9 Q What about "tourism"?

10 A I don't recall seeing any.

11 Q And what about "refund"?

12 A None.

13 Q What about "reimbursement"?

14 A None.

15 Q Now, in your search of the Gmails, Alptekin's
16 Gmail and Rafiekian's Gmail, for that period during the
17 indictment, for those 28,000 or so e-mails, what did
18 you find about a contract with the government of Turkey
19 falling through?

20 A None.

21 Q What did you find about any contract having to do
22 with Gulen falling through?

23 A I'm sorry. Can you repeat that?

24 Q My question earlier was meant to refer to Gulen.

25 I'm sorry. So let me rephrase that question. What did

Alfredo - Direct

1 you find, if anything, about a contract regarding Gulen
2 with the government of Turkey falling through?

3 A I did not see any.

4 Q What did you see, if anything, about the
5 government of Turkey pulling out of a contract
6 involving Gulen?

7 A I did not see any.

8 Q Now, we heard from FBI Forensic Examiner
9 Rosecrans, that he created an image of both of the
10 defendant's laptops that were seized pursuant to a
11 warrant from the defendant. Did the government produce
12 a copy of those images to the defense in this case?

13 A Yes, sir.

14 Q Were they produced in a manner that would allow
15 the defense to do word searches of their own or conduct
16 other methods of examination that Mr. Rosecrans talked
17 about?

18 A I believe so.

19 Q And what about the FIG e-mails from Covington that
20 Mr. Nadarajah testified about? Were those all turned
21 over to the defense in this case?

22 A Yes, sir.

23 Q Were they produced in a manner that would allow
24 the defense to do word searches and other methods of
25 examination that Mr. Rosecrans talked about?

Alfredo - Direct

1 A Yes, sir.

2 Q What about the defendant's Gmail account? Were
3 those provided to the defense?

4 A Yes, sir.

5 Q And were those produced in a decrypted form that
6 Mr. Rosecrans was able to untangle?

7 A Yes, sir.

8 Q Were they produced in a manner that would allow
9 the defense to do word searches of their own and do
10 other methods of examination that Mr. Rosecrans talked
11 about?

12 A Yes, sir.

13 Q What about Mr. Alptekin's Gmail account? Were all
14 of those provided to the defense?

15 A Yes, sir.

16 Q Were they produced in a decrypted form?

17 A Yes, sir.

18 Q Were they produced in a manner that would allow
19 the defense to do their own word searches and other
20 examination that Mr. Rosecrans talked about?

21 A I believe so, yes.

22 Q What about other participants in the Turkey
23 project, like Sphere? Were all of those provided to
24 the defense?

25 A Yes, sir.

Alfredo - Direct

1 Q Were they produced in a manner that would allow
2 the defense to do word searches and other methods of
3 examination?

4 A Yes, sir.

5 Q Now, all of these e-mails from FIG from the
6 defendant's laptops, from the defendant's Gmail, from
7 Alptekin's Gmail, from the others involved in the
8 Turkey project, can you give us an order of magnitude,
9 an estimate of how many e-mails were given to the
10 defense?

11 MR. TROUT: Your Honor, may we approach?

12 THE COURT: Yes.

13 (Conference at the bench, as follows:)

14 THE COURT: Yes.

15 MR. TROUT: Thank you, Your Honor.

16 I think this is getting pretty close to the
17 defense having to produce --

18 THE COURT: Yes, it is.

19 MR. GILLIS: Your Honor, my understanding is
20 that the defense plans to put on a defense. They are
21 going to be calling two witnesses. They wanted to call
22 them out of order. I can call this witness in
23 rebuttal, if necessary.

24 THE COURT: Well, I'm going to let you just
25 finish bringing out all the documents were taken over,

Courtovich - Cross

1 but the way it's being presented does sound as if --
2 you're giving the jury the impression that the defense
3 should come forward with evidence of these items. So
4 let's just get through it and complete it.

5 MR. GILLIS: Yes, sir.

6 THE COURT: Let's just complete all of this
7 that was turned over.

8 MR. GILLIS: Yes, sir.

9 THE COURT: All right.

10 (Proceedings continued in open court, as follows:)

11 THE COURT: All right. Mr. Gillis.

12 MR. GILLIS: Thank you, Your Honor.

13 BY MR. GILLIS:

14 Q So, Agent Alfredo, just to shorten this up, with
15 respect to all of the electronic evidence that you had
16 in this case available to you, was all of that turned
17 over to the defense?

18 A Yes, sir.

19 MR. GILLIS: Your Honor, that's all I have.

20 THE COURT: All right. Mr. Trout.

21 MR. TROUT: Thank you, Your Honor.

22 CROSS-EXAMINATION

23 BY MR. TROUT:

24 Q Special Agent Alfredo, you were the lead case
25 agent in this case?

Courtovich - Cross

1 A Yes, sir.

2 Q How many agents were there working on this matter?

3 A Throughout the entire project?

4 Q Yes.

5 A Numerous. I don't have an exact number.

6 MR. TROUT: Your Honor, I would like to have
7 marked for identification Defendant's Exhibit No. 117.

8 THE COURT: All right. Exhibit 117?

9 MR. TROUT: Yes.

10 MR. GILLIS: No objection, Your Honor.

11 THE COURT: All right. Do you want to move
12 it into evidence?

13 MR. TROUT: Yes, Your Honor.

14 THE COURT: All right. Exhibit 117 is
15 admitted.

16 MR. TROUT: Could we just show that on the
17 screen.

18 BY MR. TROUT:

19 Q Who is that?

20 A That is General Michael Flynn.

21 Q Now, in your investigation, you were aware that
22 there was a Mutual Legal Assistance Treaty between the
23 United States and the Netherlands, correct?

24 A Yes, sir.

25 Q You wanted to take advantage of that opportunity

Courtovich - Cross

1 to get evidence from the Netherlands, correct?

2 A Yes, sir.

3 Q This is simply a treaty between two countries
4 where they agreed that they will exchange evidence on a
5 request assuming you go by the specified procedure to
6 get evidence from the foreign country, correct?

7 A Yes, sir.

8 Q You took advantage of that opportunity to get
9 evidence from the Netherlands; is that correct?

10 A We did, yes, sir.

11 Q You're aware that there is a Mutual Legal
12 Assistance Treaty with Turkey as well, correct?

13 A Yes, sir.

14 Q The same deal, agreement between two countries to
15 provide evidence on request, right?

16 A Yes, sir.

17 Q You made no request for evidence from the
18 government of Turkey; isn't that correct?

19 A That's correct.

20 Q So you never even asked for bank records or
21 financial records from Turkey that would perhaps,
22 according to the government's theory of the case, show
23 evidence of money going from Turkey to Alptekin,
24 correct?

25 A Correct.

Courtovich - Cross

1 Q How much time did you spend on all of the word
2 searches that you've described?

3 A It took some time. I don't have an exact amount.

4 Q Was it more than ten hours?

5 A I believe so.

6 Q More than 20 hours?

7 A Like I said, I don't have an exact time, but it
8 took some time.

9 Q Now, when you got involved in this case, you
10 wanted to understand some of the background, correct?

11 A Yes, sir.

12 Q You went to various open source material to find
13 out about Turkey, yes?

14 A Perhaps, yes.

15 Q And about Gulen?

16 A Yes.

17 Q About General Flynn?

18 A Yes, sir.

19 Q And about the defendant, Bijan Kian?

20 A Yes, sir.

21 Q And did you want -- I think you indicated that you
22 actually looked at -- I think it was the article in the
23 *New York Times* that Mr. Alptekin had sent to indicate
24 the challenges that Turkey was experiencing as a result
25 of the coup.

Courtovich - Cross

1 A Yes, sir.

2 Q You did do other research about what was going on
3 in Turkey, correct?

4 A A little bit.

5 Q Now, I would like you to look at Government
6 Exhibit 50. This is the op-ed that General Flynn
7 published on November 8, correct?

8 A Yes, sir.

9 Q I would like you to look over at the second page
10 to the part that begins, "For those of us who have
11 closely studied the careers of Seyed Qutb and Hasan al
12 Bana...." Do you see that there?

13 A Yes, sir.

14 Q And it basically makes reference to the founders
15 of the Muslim Brotherhood; is that correct?

16 A Yes, sir.

17 Q And essentially describes the Muslim Brotherhood
18 as a terrorist organization?

19 A Do you want me to read the whole article?

20 Q So the paragraph that begins, "To professionals in
21 the intelligence community, the stamp of terror is all
22 over Mullah Gulen's statements in the tradition of Qutb
23 and al Bana." They're the founders of the Muslim
24 Brotherhood. Do you see that there?

25 A Yes, sir.

Courtovich - Cross

1 Q Do you recall receiving information in May 2017
2 that President Erdogan was affiliated with the Muslim
3 Brotherhood and was in solidarity with the Muslim
4 Brotherhood and would never have approved of this op-ed
5 as written?

6 A Sir, I did not receive that information.

7 Q Were you aware that that was an issue in this
8 case?

9 A No, sir.

10 Q As you sit here today, you were not aware that
11 that was an issue in this case?

12 A Between the Muslim Brotherhood and Erdogan?

13 Q That President Erdogan would never have approved
14 of an op-ed that equated Gulen to the Muslim
15 Brotherhood because of President Erdogan's affiliation
16 with --

17 MR. GILLIS: Objection, Your Honor. This
18 assumes facts that are not in evidence.

19 THE COURT: Well, he's asking him, as the
20 lead agent, whether he was aware that that was an
21 issue. I'll allow that.

22 A I was not aware of that.

23 Q Well, were you aware of an interview by
24 Mr. Alptekin in May 2017?

25 A On CNN?

Courtovich - Cross

1 Q No. With the FBI.

2 A Oh, yes, sir.

3 Q In that interview, weren't you told
4 specifically --

5 MR. GILLIS: Objection, Your Honor.

6 THE COURT: Let me see counsel.

7 (Conference at the bench, as follows:)

8 THE COURT: All right. What's the objection?

9 MR. GILLIS: Well, Your Honor, first of all,
10 again, it assumes facts. I mean, he should be saying:
11 What was there about this, rather than were you aware
12 of that. Because that assumes the facts in evidence,
13 rather than asking the witness if that occurred.
14 That's one objection.

15 THE COURT: Well, as I understand it, he
16 asked him whether he was aware there was an issue. He
17 said no. I assume he's trying to impeach him.

18 MR. TROUT: Yes.

19 THE COURT: Is that what's in that FBI memo?

20 MR. TROUT: Yes.

21 THE COURT: I'm going to let him answer.

22 MR. GILLIS: So with respect to what Alptekin
23 told the FBI, that -- you've heard objections all day
24 long about Alptekin's hearsay being admissible.

25 THE COURT: As I understand, it's not coming

Courtovich - Cross

1 in for that. It's just to impeach his testimony that
2 he was not aware that was an issue. I'll give a
3 limiting instruction.

4 MR. TROUT: Just to be clear, if he was the
5 case agent, I assume he was in court when we were
6 arguing about this. He's basically saying, I never
7 knew anything about it until today.

8 THE COURT: All right. I'm going to let you
9 do it.

10 MR. GILLIS: Okay. That's fine.

11 (Proceedings continued in open court, as follows:)

12 THE COURT: Mr. Trout.

13 MR. TROUT: Thank you.

14 BY MR. TROUT:

15 Q Special Agent Alfredo, were you aware from your
16 interview with or the interview of Mr. Alptekin that he
17 had pointed out that there was a problem with the op-ed
18 but that Erdogan would never approve of an op-ed in
19 which the Muslim Brotherhood was compared with Gulen?

20 MR. GILLIS: Could I just ask counsel to
21 clarify whether it was an interview he conducted or
22 someone else conducted?

23 THE COURT: Could you identify the source of
24 what you're referring to.

25 MR. TROUT: Sure.

Courtovich - Cross

1 BY MR. TROUT:

2 Q Are you aware that the FBI conducted an interview
3 of Mr. Alptekin?

4 A Yes, sir.

5 Q I take it that, as the lead agent, you would have
6 reviewed that.

7 A Sure.

8 Q Are you aware then that Mr. Alptekin had during
9 the course of the interview indicated that President
10 Erdogan would never have approved an op-ed that equated
11 the Muslim Brotherhood with Gulen?

12 A I'd have to refer back to that 302.

13 Q You were in court for various proceedings in this
14 case; were you not?

15 A Some of them.

16 Q Were you aware that there was an issue raised by
17 the defense about whether the government should look
18 for evidence that the Muslim Brotherhood was aligned
19 with Erdogan?

20 A I don't recall that information, no, sir.

21 Q All right. Were you aware as part of your
22 research Mr. -- Special Agent Alfredo, were you aware
23 that in May 2017, Secretary of State Tillerson
24 testified before Congress that in opposition to the
25 Muslim Brotherhood being designated as a --

Courtovich - Cross

1 MR. GILLIS: Objection, Your Honor.

2 THE COURT: I'm going to ask him: Are you
3 aware of the Secretary of State Tillerson's remarks
4 before Congress?

5 THE WITNESS: No, Your Honor.

6 THE COURT: All right.

7 BY MR. TROUT:

8 Q So, Special Agent Alfredo, how much time did you
9 spend interviewing anyone at the Department of State to
10 understand the relationship of the Muslim Brotherhood
11 and President Erdogan?

12 A I don't recall doing any interviews with people
13 with the Department of State.

14 Q So you never even looked into the question of
15 whether the Muslim Brotherhood was affiliated in some
16 way with leaders of the government of Turkey?

17 A No, sir.

18 Q Did anybody ask you to look at that question from
19 the government?

20 A I don't believe so.

21 Q At any time during the course of your
22 investigation, did you give any consideration to
23 whether Erdogan or senior Turkish officials would ever
24 bless an op-ed that compared the Muslim Brotherhood to
25 Gulen?

Courtovich - Cross

1 A That did not cross my mind.

2 Q Did you ever consider whether -- as you were doing
3 your investigation, did you ever consider whether
4 Erdogan or senior Turkish officials would ever bless an
5 op-ed that equated the Muslim Brotherhood to a
6 terrorist organization?

7 A It is not something I considered.

8 MR. TROUT: One second, Your Honor, if I
9 could.

10 (Counsel confer.)

11 MR. TROUT: Your Honor, there was a document
12 that we would like to be able to show the witness to
13 refresh his recollection.

14 THE COURT: All right.

15 MR. TROUT: If we could --

16 THE COURT: Are you having trouble finding
17 it?

18 MR. TROUT: Yes, we are.

19 THE COURT: All right. Ladies and gentlemen,
20 we'll take our luncheon recess at this time. We'll
21 reconvene at 2:00. Do not discuss this case among
22 yourselves during the luncheon recess.

23 (The jury exits at 1:00.)

24 THE COURT: We'll stand in recess until 2:00.
25 Special Agent, do not discuss your testimony

Courtovich - Cross

1 during the luncheon recess.

2 THE WITNESS: Yes, sir.

3 -----
4 Time: 1:01 p.m.

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I certify that the foregoing is a true and
accurate transcription of my stenographic notes.

/s/
Rhonda F. Montgomery, CCR, RPR